

Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

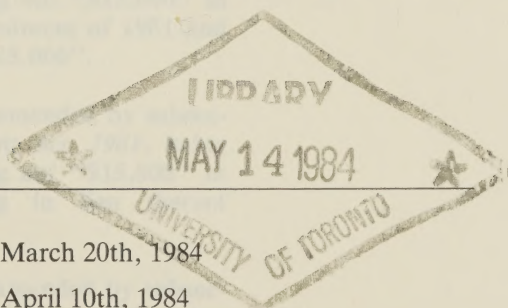
<https://archive.org/details/31761114709751>

Bill 1

(Chapter 1
Statutes of Ontario, 1984)

An Act to amend the County Courts Act

The Hon. R. McMurtry
Attorney General



1st Reading	March 20th, 1984
2nd Reading	April 10th, 1984
3rd Reading	April 24th, 1984
Royal Assent	May 1st, 1984

Bill 1**1984****An Act to amend
the County Courts Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Clause 14 (1) (a) of the *County Courts Act*, being chapter 100 of the Revised Statutes of Ontario, 1980, as amended by subsection 1 (1) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(2) Clause 14 (1) (b) of the said Act, as amended by subsection 1 (2) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(3) Clause 14 (1) (c) of the said Act, as amended by subsection 1 (3) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in both instances where it occurs in the amendment of 1981 and inserting in lieu thereof in each instance “\$25,000”.

(4) Clause 14 (1) (d) of the said Act, as amended by subsection 1 (4) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(5) Clause 14 (1) (e) of the said Act, as amended by subsection 1 (5) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(6) Clause 14 (1) (f) of the said Act, as amended by subsection 1 (6) of the *County Courts Amendment Act, 1981*, being

chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(7) Clause 14 (1) (h) of the said Act, as amended by subsection 1 (8) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(8) Clause 14 (1) (i) of the said Act, as amended by subsection 1 (9) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

(9) Clause 14 (1) (j) of the said Act, as amended by subsection 1 (10) of the *County Courts Amendment Act, 1981*, being chapter 24, is further amended by striking out “\$15,000” in the amendment of 1981 and inserting in lieu thereof “\$25,000”.

Application

(10) This section does not apply to actions commenced before this section comes into force.

Repeal

1984, c. 11

2. This Act is repealed on the day section 168 of the *Courts of Justice Act, 1984* comes into force.

Commence-
ment

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

4. The short title of this Act is the *County Courts Amendment Act, 1984*.

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 2

An Act to provide for Freedom of Information and Protection of Individual Privacy

Mr. Breithaupt

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

Bill 2**1984****An Act to provide for Freedom of Information and
Protection of Individual Privacy**

Whereas the people of Ontario believe in the dignity, worth, and equality of opportunity of every person and believe that equality is the foundation upon which free, democratic government is based; and whereas the people of Ontario are committed to the highest principles of free, democratic government; and whereas it is recognized that reasonable openness in government and the protection of the public from unwarranted secrecy and unwarranted invasion of personal privacy promote the principles of free, democratic government;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The purposes of this Act are,

Purposes

- (a) to provide a right of access to information under the control of an institution in accordance with the principles that,
 - (i) government information should be available to the public,
 - (ii) necessary exceptions to the right of access should be limited and specific, and
 - (iii) decisions on the disclosure of government information should be reviewed independently of government; and
- (b) to protect the privacy of individuals with respect to personal information about themselves held by an institution and to provide individuals with a right of access to such information.

2. In this Act,Inter-
pretation

- (a) "data bank" means a collection of personal information which is organized and capable of being retrieved;
- (b) "Data Protection Authority" means the body established under subsection 39 (1);
- (c) "data subject" means a person about whom information is gathered and stored;
- (d) "Director of Fair Information Practices" and "Director" mean the Director appointed under subsection 20 (1);
- (e) "Fair Information Practices Tribunal" and "Tribunal" mean the tribunal established under subsection 21 (1);
- (f) "head", in respect of an institution, means a person charged with record keeping responsibilities for the institution who has been designated as such by order of the responsible minister;
- (g) "institution" means a department, agency, division, board, commission, corporation or other body,
 - (i) that is financed exclusively from the Consolidated Revenue Fund,
 - (ii) at least 50 per cent of the shares of which are owned by the Crown in right of Ontario, or
 - (iii) where the Government of Ontario has the power to appoint a majority of the governing body of the institution;
- (h) "personal information" means recorded information about an identifiable individual, including,
 - (i) information relating to the race, national or ethnic origin, colour, religion, age, sex or marital status of the individual,
 - (ii) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved,

- (iii) any identifying number, symbol or other particular assigned to the individual,
 - (iv) the address, fingerprints or blood type of the individual,
 - (v) the personal opinions or views of the individual except where they relate to another individual,
 - (vi) correspondence sent to an institution by the individual that is implicitly or explicitly of a private or confidential nature, and replies to the correspondence that would reveal the contents of the original correspondence,
 - (vii) the views or opinions of another individual about the individual, and
 - (viii) the individual's name where it appears with other personal information relating to the individual or where the disclosure of the name would reveal other personal information about the individual;
- (i) "record" means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,
- (i) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microform, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and
 - (ii) subject to the regulations, any record that does not exist but is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution; and
- (j) "responsible minister" means the minister of the Crown who is designated by order of the Lieutenant Governor in Council under section 45.

PART I

FREEDOM OF INFORMATION

Right of
access

3. Every person has a right of access to a record under the control of an institution.

Request

4.—(1) A person seeking access to a record shall make a request therefor in writing to the institution that has control of the record and shall provide sufficient detail to enable an experienced employee of the institution, upon a reasonable effort, to identify the record.

Sufficiency of
detail

(2) If the request does not sufficiently describe the record sought, the institution shall inform the applicant of the defect and shall offer assistance in reformulating the request so as to comply with subsection (1).

Notice by
head

5. Where a person requests access to a record, the head of the institution to which the request is made shall, subject to section 7, within thirty days after the request is received,

- (a) give written notice to the person who made the request as to whether or not access to the record or a part thereof will be given; and
- (b) if access is to be given, give the person who made the request access to the record or part thereof.

Transfer of
request

6.—(1) Where an institution receives a request for access to a record and the head considers that another institution has a greater interest in the record, the head may, subject to the regulations, transfer the request and, if necessary, the record to the other institution, within fifteen days after the request is received, in which case the head transferring the request shall give written notice of the transfer to the person who made the request.

When
transferred
request
deemed
made

(2) For the purposes of this section, where a request is transferred under subsection (1), the request shall be deemed to have been made to the institution to which it is transferred on the day the institution to which the request was originally made received it.

Greater
interest

(3) For the purpose of subsection (1), an institution has a greater interest in a record than another institution if,

- (a) the record was originally produced in or for such institution; or

- (b) in the case of a record not originally produced in or for an institution, such institution was the first institution to receive the record or a copy thereof.

7.—(1) A head may extend the time limit set out in section 5 or subsection 6 (1) for a period of time that is reasonable in the circumstances, where, Extension of time

- (a) the request is for a large number of records or necessitates a search through a large number of records and meeting the time limit set out in section 5 or subsection 6 (1) would unreasonably interfere with the operations of the institution; or
- (b) consultations that cannot reasonably be completed within the time limit set out in section 5 or subsection 6 (1) are necessary to comply with the request.

(2) Where a head extends the time limit under subsection (1), the head shall give the person who made the request written notice of the extension setting out, Notice of extension

- (a) the length of the extension;
- (b) the reason for the extension; and
- (c) that the person who made the request may ask the Director to review the extension.

8.—(1) Where a head refuses to give access to a record or a part thereof, the head shall state in the notice given under section 5, Contents of notice of refusal

- (a) where the record does not exist, that it does not exist; or
- (b) where the record exists,
 - (i) the specific provision of this Act under which access is refused,
 - (ii) an explanation of the basis for the conclusion that the provision named in subclause (i) applies to the record,
 - (iii) the name and office of the person responsible for making the decision to refuse access, and
 - (iv) that the person who made the request may ask the Director to review the decision.

Deemed
refusal

(2) Where a head fails to comply with section 5 or 7, the head is, for the purposes of this Act, deemed to have refused to give access to the record.

Reasonable
access fee

9.—(1) The head of an institution to which a request is made under subsection 4 (1) may require the person who made the request to pay a fee covering the institution's costs of searching, reproduction and shipping if it is reasonable in all the circumstances to do so.

Review

(2) A person who is required to pay a fee under subsection (1) may ask the Director to review the head's decision to charge a fee.

Copy of
record

10.—(1) Subject to subsection (2), a person who is given access to a record or a part thereof under this Act shall be given a copy thereof unless it would not be reasonably practicable to reproduce the record or part thereof by reason of its length or nature, in which case the person shall be given an opportunity to examine the record or part thereof in accordance with the regulations.

Access to
original
record

(2) A head has discretion to allow the person who is given access to the record to examine it or a part thereof in accordance with the regulations.

Exemption re
Cabinet
records

11.—(1) A head may refuse to disclose a record whose disclosure would reveal the substance of deliberations of the Executive Council, including,

- (a) an agenda, minute or other record of the deliberations or decisions of the Executive Council or its committees;
- (b) a record containing proposals or recommendations submitted, or prepared for submission, by a minister of the Crown to the Executive Council;
- (c) a record containing background explanations, analyses of problems or policy options submitted or prepared for submission by a minister of the Crown to the Executive Council for its consideration in making decisions, before such decisions are made;
- (d) a record used for or reflecting consultation among ministers of the Crown on matters relating to the making of government decisions or the formulation of government policy;

- (e) a record containing briefings to ministers of the Crown in relation to matters that are before or are proposed to be brought before the Executive Council, or are the subject of consultations among ministers relating to government decisions or the formulation of government policy; and
- (f) draft legislation.

(2) A head may refuse to disclose a record containing advice or recommendations of public servants and consultants retained by an institution, unless it is,

Exemption
re advice to
government

- (a) a record which contains mainly factual material;
- (b) a statistical survey;
- (c) a report by a valuator, whether or not the valuator is an officer of the institution;
- (d) an environmental impact statement or similar record prepared by an institution charged with the responsibility of monitoring environmental quality;
- (e) a report of a test carried out on a product for the purpose of government equipment testing or a consumer test report;
- (f) a report or study on the performance or efficiency of an institution, whether the report or study is of a general nature or is in respect of a particular program or policy;
- (g) a feasibility study or other technical study, including a cost estimate, relating to a proposed government policy or project;
- (h) a report containing the results of field research undertaken before the formulation of a policy proposal;
- (i) a final plan or proposal for the reorganization of the function of an institution, or for the establishment of a new program, including a budgetary estimate for the program, whether or not the plan or proposal is subject to approval;
- (j) a report of an inter-departmental committee task force or similar body, or of a committee or task force within an institution, which has been estab-

lished for the purpose of preparing a report on a particular topic;

- (k) a report of a committee, council or other body which is attached to an institution and which has been established for the purpose of undertaking inquiries and making reports or recommendations to the institution;
- (l) a final proposal for the preparation of subordinate legislation;
- (m) a document to which clause 16 (1) (a) or (b) applies; or
- (n) a final decision, order or ruling of an officer of the institution made during or at the conclusion of the exercise of discretionary power conferred by or under an enactment or scheme administered by the institution, whether or not the enactment or scheme allows an appeal to be taken against the decision, order or ruling, and any reason explaining the decision, order or ruling, whether or not the reason,
 - (i) is contained in an internal memorandum of the institution or in a letter addressed by an officer or employee of the institution to a named person, or
 - (ii) was given by the officer who made the decision, order or ruling or was incorporated by reference into the decision, order or ruling.

Exemption
re law
enforcement

(3) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) interfere with a law enforcement proceeding;
- (b) interfere with an investigation undertaken with a view to a law enforcement proceeding or from which a law enforcement proceeding is likely to result;
- (c) reveal investigative techniques and procedures currently in use or likely to be used;
- (d) disclose the identity of a confidential source of information, or disclose information furnished only by the confidential source;

- (e) endanger the life or physical safety of a law enforcement officer;
- (f) deprive a person of the right to a fair trial or impartial adjudication;
- (g) interfere with the gathering of intelligence information respecting organizations or persons;
- (h) reveal a record which has been confiscated from a person by a peace officer in accordance with an Act or regulation;
- (i) endanger the security of a building or the security of a vehicle carrying items, or of a system or procedure established for the protection of items, for which protection is reasonably required;
- (j) facilitate the escape from custody of a person who is under lawful detention;
- (k) jeopardize the security of a centre for lawful detention; or
- (l) promote the commission of offences or hamper the control of crime.

(4) Subsection (3) does not apply to a record,

Exceptions

- (a) revealing that the scope of any law enforcement investigation has exceeded the limits imposed by law;
- (b) revealing the use of illegal law enforcement techniques or procedures;
- (c) containing any general outline of the structure and programs of a law enforcement agency;
- (d) that is a report on the degree of success achieved in a law enforcement program or programs, including statistical analysis;
- (e) that is a report prepared in the course of routine law enforcement, inspections or investigations by an agency which has the function of enforcing and regulating compliance with a law other than the criminal law; and

- (f) that is a report on a law enforcement investigation where the substance of the report has been disclosed to the person or body that was the subject of the investigation.

Refusal to
confirm or
deny exist-
ence of
record

(5) Despite subsection 8 (1), a head may refuse to confirm or deny the existence of a record to which subsection (3) applies.

Review

(6) Where a head refuses to confirm or deny the existence of a record, the person who made the request may ask the Director to review the head's decision.

Exemption re
relations with
other
governments

(7) A head may refuse to disclose a record whose disclosure could reasonably be expected to,

- (a) prejudice the relations of the Government of Ontario or the Government of Canada with a foreign government;
- (b) prejudice the defence of Canada; or
- (c) reveal information given or received in confidence by the Government of Ontario.

Exemption
re
commercial
information

(8) A head may refuse to disclose a record that reveals a trade secret or other commercial or financial information, except for statistical aggregates, where the disclosure could reasonably be expected to,

- (a) prejudice significantly the competitive position or interfere significantly with the contractual or other negotiations of a person, group of persons, or organization;
- (b) result in information of the same kind no longer being supplied to the institution, where,
 - (i) the information was supplied to the institution on a confidential basis, and
 - (ii) where it is in the public interest that similar information continue to be supplied to the institution;
- (c) result in undue loss or gain to any person, group, committee or financial institution or agency; or
- (d) unreasonably expose the institution or a commercial or financial enterprise, including a Crown corpora-

tion, to disadvantage in competitive activity or in a present or likely process of negotiation, contractual arrangement or similar process.

(9) Subsection (8) does not apply to a record where the public interest in its disclosure outweighs the commercial interest in its continued confidentiality. Exception

(10) A head may refuse to disclose a record that is subject to solicitor-client privilege and was prepared with a view to or for the purpose of litigation. Solicitor-client privilege

(11) A head may refuse to disclose a record that is specifically exempted from disclosure by a statute that, Exemption re statutory confidentiality provisions

(a) requires that the record be withheld from the public in such a manner as to give the head no discretion; or

(b) establishes particular criteria for withholding or refers to particular types of records to be withheld from the public.

(12) A head may refuse to disclose a record where disclosure could reasonably be expected to threaten the safety of an individual. Exemption re danger to safety

12.—(1) A head shall not disclose personal information to any person other than the individual except, Personal privacy

(a) upon the prior written request or consent of the individual, if the record is one to which the individual is entitled to have access;

(b) in compelling circumstances affecting the health or safety of an individual, if upon disclosure notification thereof is mailed to the last known address of the individual to whom the record pertains;

(c) personal information collected and maintained specifically for the purpose of creating a record available to the general public;

(d) under an Act of Ontario or Canada that expressly authorizes the disclosure;

(e) for a research purpose if,

(i) the use of disclosure is consistent with the conditions or reasonable expectations of use

and disclosure under which the personal information was provided, collected or obtained,

- (ii) the research purpose for which the disclosure is to be made,
 - (A) cannot be reasonably accomplished unless the information is provided in individually identifiable form, and
 - (B) justifies the risk to the individual which additional exposure of the information might bring,
- (iii) the qualifications of those who will conduct the research justify the conclusion that the research objectives will be satisfactorily achieved,
- (iv) the research proposal is soundly designed in terms of its ability to achieve the stated research objectives, its cost effectiveness, and its minimization of disruption of the operations of the institution, and
- (v) terms and conditions relating to,
 - (A) security and confidentiality,
 - (B) the destruction of the individual identifier or identifiers associated with the record at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research or statistical project, and
 - (C) the prohibition of any subsequent use or disclosure of the record in individually identifiable form without the express authorization of the institution,

have been approved by the Data Protection Authority under clause 40 (g) and the person obtaining the record has filed with the Data Protection Authority a written statement indicating that the person understands and will abide by the terms and conditions; or

- (f) if the disclosure does not constitute an unjustified invasion of personal privacy.

(2) A person or tribunal, in determining whether a disclosure of personal information constitutes an unjustified invasion of personal privacy, shall consider whether,

Criteria re
invasion of
privacy

- (a) the disclosure is desirable for the purpose of subjecting the activities of the Government of Ontario and its agencies to public scrutiny;
- (b) access to the personal information may promote public health and safety;
- (c) access to the personal information will promote informed choice in the purchase of goods and services;
- (d) the personal information is relevant to a fair determination of rights affecting the person who made the request;
- (e) the data subject will be exposed unfairly to pecuniary or other harm;
- (f) the personal information is highly sensitive;
- (g) the personal information is unlikely to be accurate or reliable; and
- (h) the personal information has been supplied by the data subject in confidence,

and shall take into account any other relevant circumstance.

(3) A disclosure of personal information is presumed to constitute an unjustified invasion of personal privacy where the personal information,

Presumed
invasion of
privacy

- (a) relates to a medical, psychiatric or psychological history, diagnosis, condition, treatment or evaluation, except for personal information confirming an individual's presence in a health care facility;
- (b) was compiled and is identifiable as part of an investigation into a possible violation of criminal law, except to the extent that disclosure is necessary to prosecute the violation or to continue the investigation;

- (c) relates to eligibility for social service or welfare benefits or to the determination of benefit levels;
- (d) relates to employment history;
- (e) was obtained on an income tax return or similar return or gathered by an institution for the purpose of collecting an income tax or similar tax;
- (f) describes an individual's finances, income, assets, liabilities, net worth, bank balances, financial history or activities, or creditworthiness;
- (g) consists of personal recommendations or evaluations, character references or personnel evaluations;
- (h) indicates the individual's racial or ethnic origin or religious or political beliefs and associations; or
- (i) is required to be kept confidential by law.

Severability
of record

13. Where an institution receives a request for access to a record that contains information which the head may refuse to disclose and information which the head may not refuse to disclose, the head shall disclose any reasonably severable portion of the record.

Publication
of
information
re
institutions

14. The Lieutenant Governor in Council shall cause to be published annually a compilation listing all institutions and, in respect of each institution, setting out,

- (a) where a request for a record should be made;
- (b) where the material referred to in sections 15, 16 and 17 has been made available;
- (c) details of all boards, councils, committees and other bodies consisting of two or more persons that form part of or have been established for the purpose of advising the institution, and whose meetings are open to the public, or whose minutes of meetings are available for public inspection; and
- (d) whether the institution has a library or reading room which is available for public use, and if so, its address.

Operation of
institutions

15. A head shall make available for inspection and copying by the public, at an office of the institution and at another

government office or a public library, a fully indexed compilation containing,

- (a) a description of the organization and operating procedures of the institution, including,
 - (i) the functions of and the programs administered by each office, division or branch of the institution,
 - (ii) the general types of decisions made by each such office, division or branch in the exercise of any such function or in the administration of any such program,
 - (iii) the titles of officers who have final authority to make any such decisions, and any delegation of that authority,
 - (iv) the formal and informal administrative procedures used for consultation with the public or in the making of any such delegation, and
 - (v) the general manner by which matters arising in the exercise of any function are initiated, processed, channeled and determined;
- (b) a list of the general classes or types of records prepared by or in the possession of the institution;
- (c) the title and business address of each head of the institution who has been designated under section 2 with responsibility to process requests for records and the class of records in relation to which each officer has responsibility; and
- (d) any amendment of information referred to in clauses (a), (b) and (c) which has been made available in accordance with this section.

16.—(1) A head shall make available, in the manner described in section 15, any document which has been prepared by the institution, whether before or after this Act comes into force, and issued to officers of the institution and which contains,

Institution
documents

- (a) interpretations of the provisions of any enactment or scheme administered by the institution where the interpretations are to be applied by, or are to be guidelines for, any officer who determines,

- (i) an application by a person for a right, privilege or benefit which is conferred by the enactment or scheme,
 - (ii) whether to suspend, revoke or impose new conditions on a right, privilege or benefit already granted to a person under the enactment or scheme, or
 - (iii) whether to impose an obligation or liability on a person under the enactment or scheme; or
- (b) instructions to, and guidelines for, officers of the institution on the procedures to be followed, the methods to be employed or the objectives to be pursued in their administration or enforcement of the provisions of any enactment or scheme administered by the institution that affects the public.

Deletions

(2) A head may delete from a document made available under subsection (1) any record which the head would be entitled to refuse to disclose, except under subsection 11 (2), where the head includes in the document,

- (a) a statement of the fact that a deletion has been made;
- (b) a brief statement of the nature of the record which has been deleted; and
- (c) a reference to the provision of this Act on which the head relies.

Amendments

(3) Subsections (1) and (2) apply to amendments to documents.

Index

(4) The documents made available under this section shall be fully indexed.

Opinions of institution

17. A head shall make available, in the manner described in section 15, an index of all the institution's final opinions, orders, including concurring and dissenting opinions, and orders made in the adjudication of cases affecting the public.

Annual report

18.—(1) A head shall make an annual report, in accordance with subsection (2), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Contents of report

(2) A report made under subsection (1) shall specify,

- (a) the number of requests for access to records made to the institution;
- (b) the number of refusals by the head to disclose a document, the provisions of this Act under which disclosure was refused, and the number of occasions on which each provision was invoked;
- (c) the number of applications to the Director for review of a refusal to disclose a document, the number of applications for review of a decision by the head to charge a fee under subsection 9 (1) and, in respect of each application for review of a refusal to disclose a document,
 - (i) the provision of this Act on which the head relied,
 - (ii) the decision of the Director, and
 - (iii) the details of the Director's order;
- (d) the amount of fees collected by the institution under subsection 9 (1);
- (e) the location of any reading room or other facility provided by the institution for the use of a person wishing to inspect or copy a document possessed by the institution;
- (f) the publications, documents or other information regularly on display in the reading room or other facility; and
- (g) such other information as indicates an effort by the institution to put into practice the purpose of this Act.

19.—(1) Where a head proposes to disclose a record or part thereof that in the opinion of the head may affect the interests of the data subject, the head may, within thirty days after the request for access is received, give written notice in accordance with subsection (2) to the data subject.

Notice to
data subject

(2) The notice shall contain,

Contents of
notice

- (a) a statement that the head intends to release a record or part thereof that may affect the interests of the data subject;

- (b) a description of the contents of the record or part thereof that relates to the data subject; and
- (c) a statement that the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or part thereof should not be disclosed.

Extension of
time

(3) A head may extend the time set out in subsection (1) in respect of a request under this Act where the time limit set out in section 5 is extended under section 7 in respect of the same request, but no extension period under this subsection shall exceed the period of the extension under section 7.

Representa-
tion re
disclosure

(4) Where a notice is given under subsection (1),

- (a) the data subject may, within twenty days after the notice is given, make representations to the head as to why the record or the part thereof should not be disclosed; and
- (b) the head shall, within thirty days after the notice is given, decide whether or not to disclose the record or the part thereof and give written notice of the decision to the data subject and the person who made the request.

Written
representa-
tions

(5) Representations under clause (4) (a) shall be made in writing unless the head permits them to be made orally.

Notice of
head's
decision

(6) A notice given under clause (4) (b) shall include,

- (a) a statement that the data subject may ask the Director to review the decision within twenty days after the notice is given; and
- (b) a statement that the person who made the request will be given access thereto or to a part thereof, unless within twenty days after the notice is given, a review of the decision is requested.

Access to be
given unless
data subject
appeals

(7) Where, under clause (4) (b), the head decides to disclose the record or a part thereof, the head shall give the person who made the request access to the record or part thereof after a day twenty days after notice is given under clause (4) (b), unless the data subject asks the Director to review the decision.

Director

20.—(1) The Lieutenant Governor in Council may appoint a Director of Fair Information Practices.

(2) The Director may appoint under the *Public Service Act* such officers and employees as are considered necessary from time to time for the Director's purposes.

Staff
R.S.O. 1980,
c. 418

(3) The Director shall receive such salary or remuneration and expenses as may be fixed by the Lieutenant Governor in Council by order.

Remunera-
tion

(4) The accounts of the Director shall be audited annually by the Provincial Auditor.

Audit

(5) The Director shall make an annual report, in accordance with subsection (6), to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

(6) A report made under subsection (5) shall contain,

Contents of
report

(a) an indication of the nature and ultimate resolutions of reviews carried out under subsection 23 (1);

(b) an assessment of the extent to which institutions are complying with this Act;

(c) the Director's recommendations with respect to the practices of particular institutions and with respect to proposed revisions to the Act and regulations.

21.—(1) The Fair Information Practices Tribunal is hereby established.

Tribunal
established

(2) The Tribunal shall be composed of a chairman and at least three other members to be appointed by the Lieutenant Governor in Council.

Composition

(3) The members of the Tribunal shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Remunera-
tion

(4) The chairman of the Tribunal shall report annually upon the affairs of the Tribunal to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

(5) The chairman of the Tribunal shall from time to time publish a summary of the Tribunal's decisions and its reasons therefor.

Summary of
decisions

(6) The accounts of the Tribunal shall be audited annually by the Provincial Auditor.

Audit

Staff

(7) Such officers and employees as are considered necessary from time to time for the purposes of the Tribunal may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Review by
Director

22.—(1) A person who has made a request for access to a record, and, where section 19 applies, a data subject, may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Notice of
review

(2) Where the Director receives a request under subsection (1), the Director shall review the decision, upon giving notice of the review to all interested persons.

Nature of
review

23.—(1) The Director shall informally inquire into and investigate the circumstances of the decision to be reviewed and may, in writing, appoint any person to assist him or her.

Informality
R.S.O. 1980,
c. 484

(2) The *Statutory Powers Procedure Act* does not apply to a review under subsection (1).

Private
hearing

(3) The Director may conduct the review or part thereof *in camera*.

Represent-
ations by
interested
parties

(4) In the course of an inquiry or investigation the Director shall give a reasonable opportunity to make representations to all interested persons.

Consent
resolution or
order

24.—(1) After the inquiry or investigation into the circumstances of the decision is complete, the Director shall attempt to reconcile the differences between the parties and, where the dispute cannot be satisfactorily resolved on consent, shall make an order.

Terms and
conditions

(2) The Director's order may contain any terms and conditions the Director considers appropriate.

Notice of
order

(3) The Director shall give the persons who received notice of the review under subsection 22 (2) written notice of the order, including,

(a) the reasons therefor; and

(b) a statement that a person who made representations under subsection 23 (4) may appeal the order to the Fair Information Practices Tribunal.

Appeal

25.—(1) A person who made representations under subsection 23 (4) and wishes to exercise the right of appeal may

file a written notice of appeal with the Fair Information Practices Tribunal within thirty days of the date of the Director's order.

(2) Despite section 9 of the *Statutory Powers Procedure Act*, the Tribunal may hear representations by the head in the absence of the person who made the request where the Tribunal considers that a private hearing will facilitate a full explanation of the reasons for the decision.

Tribunal may hold private hearing
R.S.O. 1980, c. 484

26.—(1) This Act does not limit the information available to a litigant under the doctrine of Crown privilege.

Crown privilege

(2) This Act does not affect the power of a court or Tribunal to compel a witness to testify or compel the production of a document.

Powers of courts and tribunals

PART II

PROTECTION OF INDIVIDUAL PRIVACY

27. No person shall collect personal information on behalf of an institution unless the collection is expressly authorized by statute, or necessary to the proper administration of a lawfully authorized administration activity.

Protection of personal information

28.—(1) Personal information that is intended to be used by an institution for an administrative purpose shall only be collected directly from the individual unless,

Direct collection

- (a) the individual authorizes another manner of collection;
- (b) the personal information may be disclosed to the institution concerned under section 31; or
- (c) the Data Protection Authority has authorized the particular act of collection under clause 40 (d).

(2) Where personal information is collected on behalf of an institution, the head shall inform the individual of,

Notice to data subject

- (a) the legal authority for the collection;
- (b) the principal purpose or purposes for which the personal information is intended to be used;
- (c) whether disclosure is voluntary or mandatory and the consequences of failure to provide the personal information;

- (d) the anticipated use and dissemination of the personal information;
- (e) alternative sources for verification of the personal information;
- (f) the name, title and business telephone number of a public official who can answer the individual's questions about the collection; and
- (g) whether the individual will have access or correction rights with respect to the personal information.

Retention of
personal
information

29.—(1) Personal information that has been used by an institution for an administrative purpose shall be retained after use by the institution for the period prescribed by regulation in order to ensure that the individual to whom it relates has a reasonable opportunity to obtain access to the personal information.

Accuracy and
completeness

(2) A head shall ensure that the institution complies with the regulations with respect to the accuracy and completeness of personal information that is used for an administrative purpose.

Disposal of
personal
information

(3) A head shall dispose of personal information under the control of the institution in accordance with the regulations and in accordance with any directives or guidelines issued by the responsible minister.

Protection of
personal
information

30. Personal information under the control of an institution shall not be used by the institution without the consent of the individual except,

- (a) for the purpose for which it was obtained or compiled or for a use consistent with the purpose; or
- (b) for a purpose for which the information may be disclosed to the institution under section 31.

Where
disclosure
permitted

31.—(1) A head may disclose personal information under the control of the institution,

- (a) in accordance with Part I;
- (b) where disclosure is made to an officer or employee of the institution who needs the record in the performance of his or her duties and where disclosure is necessary and proper in the discharge of the institution's functions;

- (c) under statutory provisions that establish specific criteria for the use or disclosure of the information;
- (d) where disclosure is by a law enforcement institution to another law enforcement institution in Canada or to a law enforcement institution in a foreign country under a written agreement, treaty or legislative authority;
- (e) in compelling circumstances affecting the health and safety of an individual;
- (f) in compassionate circumstances, to facilitate contact with the next of kin or a friend of an individual who is injured, ill or deceased;
- (g) to a member of the Legislative Assembly who has been authorized by a constituent to make an inquiry on his behalf or, where the constituent is incapacitated, has been authorized by a relative or legal representative of the constituent;
- (h) to the Provincial Auditor;
- (i) to the Ombudsman;
- (j) to the Data Protection Authority;
- (k) to the Director of Fair Information Practices;
- (l) to the Fair Information Practices Tribunal;
- (m) to the Government of Canada in order to facilitate the auditing of shared cost programs;
- (n) to the Archives of Ontario; and
- (o) to Statistics Canada.

(2) A head shall retain a copy of every request received by the institution under clause (1) (d) for the period of time as may be prescribed by regulation and shall, on the request of the Data Protection Authority, make the copy available to the Authority.

Retention of
requests re
law
enforcement

32.—(1) A head shall retain a record of any use by the institution of personal information contained in a personal data bank and of any use or purpose for which the information is disclosed where the use or purpose is not included in the statements of uses and purposes set forth under clause

Retention of
record of use

34 (1) (d) and shall attach or link the record of use to the personal information.

Record of
use part of
personal
information

(2) A record retained under subsection (1) forms part of the personal information to which it is attached or linked.

Notice and
publication

(3) Where personal information in a data bank under the control of an institution is used or disclosed for a use consistent with the purpose for which the information was obtained or compiled by the institution but the use is not included in the statement of consistent uses set forth under clause 34 (1) (d), the head shall,

- (a) forthwith notify the Data Protection Authority of the use or disclosure; and
- (b) ensure that the use is included in the next statement of consistent uses set forth in the index.

Data
banks

33. A head shall cause to be included in a data bank all personal information under the control of the institution that,

- (a) has been used, is being used or is available for use for an administrative purpose; or
- (b) is organized or intended to be retrieved by the individual's name or by an identifying number, symbol or other particular assigned to the individual.

Personal
information
data bank
index

34.—(1) The responsible minister shall publish at least once each year an index of all data banks containing personal information setting forth, in respect of each data bank,

- (a) its name and location;
- (b) the legal authority for its establishment;
- (c) the types of personal information maintained in it;
- (d) the principal uses of the personal information and the categories of users to whom disclosures from the system are typically made;
- (e) any other uses and purposes for which personal information in the data bank is used or disclosed on a regular basis;
- (f) the categories of individuals for whom records are maintained in the system;

- (g) the policies and practices applicable to the system with respect to storage, retrievability, access controls, retention and disposal of personal information maintained in the system; and
- (h) the title, business address, and business telephone number of the official responsible for the operation of the data bank.

(2) The responsible minister shall cause the index referred to in subsection (1) to be made available throughout Ontario in conformity with the principle that every person is entitled to reasonable access to the index.

Availability
of index

35.—(1) Every individual has a right of access to,

Right of
access to
personal
information

- (a) any personal information about the individual contained in a data bank under the control of an institution; and
- (b) any other personal information about the individual under the control of an institution with respect to which the individual is able to provide sufficiently specific information to render it reasonably retrievable by the institution.

(2) Every individual who is given access under clause (1) (a) to personal information about the individual that has been used, is being used or is available for use for an administrative purpose is entitled to,

Right of
correction

- (a) request correction of the personal information where the individual believes there is an error or omission therein;
- (b) require that a statement of disagreement be attached to the information reflecting any correction that was requested but not made; and
- (c) require that any person or body to whom the personal information has been disclosed for use for an administrative purpose within the year before the time a correction is requested or a statement of disagreement is required be notified of the correction or statement of disagreement.

36.—(1) An individual seeking access to personal information about the individual shall make a request therefor in writing to the institution that has control of the personal

Request

information and shall identify the data bank or otherwise identify the location of the personal information.

Access
procedures

(2) Subsection 4 (2), and sections 5, 6, 7, 8 and 13 apply with all necessary modifications to a request made under subsection (1).

Manner of
access

(3) Subject to the regulations, where an individual is to be given access to personal information requested under subsection (1), the head shall,

- (a) permit the individual to examine the personal information; or
- (b) provide the individual with a copy thereof.

Compre-
hensible form

(4) Where access to personal information is to be given, the head shall ensure that the personal information is provided to the individual in a comprehensible form and in a manner which indicates the general terms and conditions under which the personal information is stored and used.

Exemptions

37. A head may refuse to disclose personal information,

- (a) to which subsections 11 (1), (3), (4), (5), (7), (8), (9), (10) and (11) apply;
- (b) whose disclosure would constitute an unwarranted invasion of another individual's personal privacy;
- (c) that is evaluative or opinion material compiled solely for the purpose of determining suitability, eligibility or qualifications for the awarding of government contracts and other benefits if its disclosure would reveal the identity of a source who furnished information to the institution in confidence;
- (d) that is medical information whose disclosure would prejudice the health of the data subject;
- (e) that is a correctional record whose disclosure could reasonably be expected to,
 - (i) seriously disrupt an individual's institutional, parole, or mandatory supervision program,
 - (ii) reveal information supplied in confidence, or
 - (iii) result in physical or other harm to the individual or another person; or

(f) that is a research or statistical record.

38.—(1) An individual who has made a request for access to personal information under subsection 36 (1) or a request for correction under subsection 35 (2) may ask the Director of Fair Information Practices to review any decision respecting the request by making a request to the Director in writing within thirty days of becoming aware of the decision.

Review by
Director

(2) Subsection 22 (2), and sections 23, 24 and 25 apply, with all necessary modifications, to a request for review under subsection (1).

Review and
further
appeal

39.—(1) The Data Protection Authority is hereby established.

Authority
established

(2) The Authority shall be composed of a chairman and at least four other members to be appointed by the Lieutenant Governor in Council.

Composition

(3) The chairman of the Authority shall report annually upon the affairs of the Authority to the Speaker of the Assembly who shall cause the report to be laid before the Assembly if it is in session or, if not, at the next ensuing session.

Annual
report

(4) The accounts of the Authority shall be audited annually by the Provincial Auditor.

Audit

(5) Such officers and employees as are considered necessary from time to time for the purposes of the Authority may be appointed under the *Public Service Act*.

Staff

R.S.O. 1980,
c. 418

40. The Data Protection Authority may,

Powers and
duties of
Authority

(a) offer comment on the privacy protection implications of proposed legislative schemes or government programs;

(b) advise on the interpretation and implementation of this Act;

(c) require an institution to,

(i) cease a collection practice, and

(ii) destroy collections of personal information,

that contravene this Act;

- (d) in appropriate circumstances, authorize the collection of personal information otherwise than directly from the individual;
- (e) engage in or commission research into issues affecting the purposes of this Act;
- (f) receive representations from the public concerning the operation of this Act; and
- (g) consider and approve or reject terms and conditions related to a research proposal.

Regulations

41. Subject to the approval of the Lieutenant Governor in Council, the Data Protection Authority may make regulations,

- (a) respecting the manner of access to original records under section 10;
- (b) respecting the manner of access to personal information under subsection 36 (3);
- (c) respecting records which may be produced from machine readable records;
- (d) setting standards for and requiring administrative, technical and physical safeguards to ensure the security and confidentiality of records and personal information under the control of institutions;
- (e) setting standards for the accuracy and completeness of personal information that is under the control of an institution and used for an administrative purpose;
- (f) prescribing time periods for the purposes of subsections 29 (1) and 31 (2); and
- (g) respecting any matter necessary to carry out effectively the purpose of this Act.

Offences

42.—(1) No person shall,

- (a) wilfully disclose personal information in contravention of this Act;
- (b) wilfully maintain a data bank that contravenes this Act; or

- (c) obtain or attempt to obtain personal information under false pretences.

(2) Every person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding \$5,000. Penalty

43. An individual may by action recover from the Crown in right of Ontario pecuniary and other damages suffered as a result of, Right of action

- (a) a refusal to correct inaccurate personal information under subsection 35 (2);
- (b) a contravention of this Act relating to the collection or disclosure of personal information.

44. A head may by order delegate any of his or her powers and duties under this Act to an officer or employee of the institution. Head may delegate

45. The Lieutenant Governor in Council may by order designate a minister of the Crown to be the responsible minister for the purposes of this Act. Responsible minister

46.—(1) The Standing Committee on Procedural Affairs shall undertake a comprehensive review of all confidentiality provisions contained in Acts in existence on the day this Act comes into force and shall make recommendations to the Government of Ontario regarding, Review of other Acts

- (a) the repeal of unnecessary or inconsistent provisions; and
- (b) the amendment of provisions that do not conform to the purposes of this Act.

(2) A confidentiality provision in an Act in existence on the day this Act comes into force is deemed to be repealed on a day two years after the day this Act comes into force unless it is amended or reaffirmed by the Legislative Assembly. Deemed repeal

47. This Act binds the Crown. Crown bound

48. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commencement

49. The short title of this Act is the *Freedom of Information and Protection of Privacy Act, 1984*. Short title

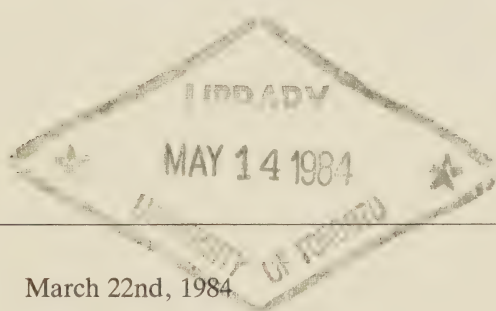
Bill 4

(Chapter 2
Statutes of Ontario, 1984)

An Act to amend the Wine Content Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 17th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 4**1984****An Act to amend the Wine Content Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

- 1.** Subsection 1 (2) of the *Wine Content Act*, being chapter 534 of the Revised Statutes of Ontario, 1980, is amended by striking out “1984” in the second line and inserting in lieu thereof “1986”.
- 2.** This Act comes into force on the day it receives Royal Assent. Commence-
ment
- 3.** The short title of this Act is the *Wine Content Amendment Act, 1984*. Short title

Bill 5

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is a revision of Part VIII of the *Corporations Act* which deals with extra-provincial corporations.

The main changes from the existing law are as follows:

1. Corporations incorporated by Canada or any province or territory in Canada will not require a licence to operate in Ontario. (s. 4 (1))
2. Definition of carrying on business is revised. Non-profit activities are included. (s. 1 (2, 3))
3. Corporations not described in paragraph 1 will continue to require a licence. (s. 4 (2))
4. Procedures are set out for determining whether the name of an extra-provincial corporation is acceptable for use in Ontario. (ss. 9, 10)
5. Provisions respecting agents for service are codified. (s. 19)
6. Penalty provisions are updated. (s. 20)

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of
extra-
provincial
corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where
licence
not required
R.S.O. 1980,
c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on
business
without
licence
prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application for licence, etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where Director endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When endorsement effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where endorsement refused

Idem (2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may
cancel
licence 7.—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by
Director (2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation (3) In this section, “sufficient cause” includes,

(a) failure to pay any prescribed fee;

(b) failure to comply with section 19;

R.S.O. 1980,
c. 96

(c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

(d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

Appeal 8.—(1) A person aggrieved by a decision of the Director,

(a) to refuse to endorse an application;

(b) to make or refuse to make an order under section 11;

(c) to cancel a licence under section 7 or subsection 12 (2);

(d) to require that a corrected licence be endorsed under section 18; or

(e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court,

Certification
by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section.

Director may
be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it.

Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section.

Further
orders by
Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name.

Use of other
name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name,

Where name,
etc., likely
to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive;
or

- (c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing
material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where
contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director
may apply
for order
under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may
cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where
change
of name or
jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

- R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400
- (b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and
- (c) failure to comply with an order made under section 11.
- Notice not deemed
- 15.** No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.
- Certificate
- 16.** The Director shall, upon payment of the prescribed fee, issue a certificate certifying,
- (a) as to the endorsement or non-endorsement of a licence for any corporation;
- (b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or
- (c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.
- Delegation by Director
- 17.—(1)** The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.
- Signing
- (2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.
- Evidence
- (3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.
- Reproducing signature
- (4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

Verification
by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath.

Evidence
under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation.

Agent for
service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence.

Appointment
form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director.

Revised
appointment

(4) Any matter sent by the Director by prepaid post,

Service by
Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause,

Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to
maintain
action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting
default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to
hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; and
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of
licence under
R.S.O. 1980,
c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences
cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in
other Acts

- (a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and
- (b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where
corporation
deemed to
have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

- (a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;
- (b) prescribing forms for use under this Act and providing for their use;
- (c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (d) respecting names of extra-provincial corporations or classes thereof;
- (e) prohibiting the use of any words or expressions in a corporate name;
- (f) defining any word or expression used in clause 10 (1) (b);
- (g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

4TH SESSION, 32ND LEGISLATURE, ONTARIO

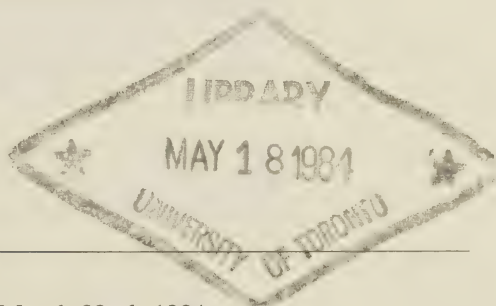
33 ELIZABETH II, 1984

Bill 5

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations



<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 17th, 1984
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Administration of Justice Committee)

EXPLANATORY NOTES

The Bill is a revision of Part VIII of the *Corporations Act* which deals with extra-provincial corporations.

The main changes from the existing law are as follows:

1. Corporations incorporated by Canada or any province or territory in Canada will not require a licence to operate in Ontario. (s. 4 (1))
2. Definition of carrying on business is revised. Non-profit activities are included. (s. 1 (2, 3))
3. Corporations not described in paragraph 1 will continue to require a licence. (s. 4 (2))
4. Procedures are set out for determining whether the name of an extra-provincial corporation is acceptable for use in Ontario. (ss. 9, 10)
5. Provisions respecting agents for service are codified. (s. 19)
6. Penalty provisions are updated. (s. 20)

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of
extra-
provincial
corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where
licence
not required
R.S.O. 1980,
c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on
business
without
licence
prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application
for licence,
etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where
Director
endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of
endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When
endorsement
effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions
on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where
endorsement
refused

Idem

(2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may
cancel
licence

7.—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by
Director

(2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation

(3) In this section, “sufficient cause” includes,

(a) failure to pay any prescribed fee;

(b) failure to comply with section 19;

(c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and

R.S.O. 1980,
c. 96

(d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

Appeal

8.—(1) A person aggrieved by a decision of the Director,

(a) to refuse to endorse an application;

(b) to make or refuse to make an order under section 11;

(c) to cancel a licence under section 7 or subsection 12 (2);

(d) to require that a corrected licence be endorsed under section 18; or

(e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court, Certification by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section. Director may be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it. Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section. Further orders by Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name. Use of other name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name, Where name, etc., likely to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive;
or

- (c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing
material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where
contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director
may apply
for order
under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may
cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where
change
of name or
jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

(b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and

(c) failure to comply with an order made under section 11.

Notice not
deemed

15. No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.

Certificate

16. The Director shall, upon payment of the prescribed fee, issue a certificate certifying,

- (a) as to the endorsement or non-endorsement of a licence for any corporation;
- (b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or
- (c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.

Delegation
by Director

17.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

Signing

(2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.

Evidence

(3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproducing
signature

(4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise. Verification by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath. Evidence under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation. Agent for service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence. Appointment form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director. Revised appointment

(4) Any matter sent by the Director by prepaid post, Service by Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause, Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to
maintain
action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting
default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to
hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; or
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of
licence under
R.S.O. 1980,
c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences
cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in
other Acts

- (a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and
- (b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where
corporation
deemed to
have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

- (a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;
- (b) prescribing forms for use under this Act and providing for their use;
- (c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (d) respecting names of extra-provincial corporations or classes thereof;
- (e) prohibiting the use of any words or expressions in a corporate name;
- (f) defining any word or expression used in clause 10 (1) (b);
- (g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

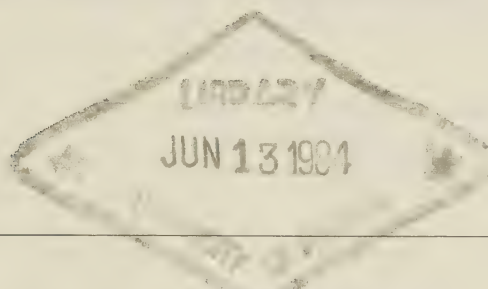
28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

Bill 5

(Chapter 14
Statutes of Ontario, 1984)

An Act in respect of Extra-Provincial Corporations

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 17th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 5**1984****An Act in respect of Extra-Provincial Corporations**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “business” includes undertaking and non-profit activities;
- (b) “court” means the High Court of Justice;
- (c) “Director” means the Director appointed under section 3;
- (d) “endorse” includes imprinting a stamp, in accordance with section 5, on the face of an application sent to the Director;
- (e) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislative Assembly;
- (f) “Minister” means the Minister of Consumer and Commercial Relations or such other member of the Executive Council to whom the administration of this Act may be assigned;
- (g) “Ministry” means the Ministry of the Minister;
- (h) “prescribed” means prescribed by the regulations;
- (i) “send” includes deliver or mail;
- (j) “regulations” means the regulations made under this Act.

(2) For the purposes of this Act, an extra-provincial corporation carries on its business in Ontario if,

Carrying on
business in
Ontario

- (a) it has a resident agent, representative, warehouse, office or place where it carries on its business in Ontario;
- (b) it holds an interest, otherwise than by way of security, in real property situate in Ontario; or
- (c) it otherwise carries on its business in Ontario.

Idem

(3) An extra-provincial corporation does not carry on its business in Ontario by reason only that,

- (a) it takes orders for or buys or sells goods, wares and merchandise; or
- (b) offers or sells services of any type,

by use of travellers or through advertising or correspondence.

Classes of
extra-
provincial
corporations

2.—(1) Extra-provincial corporations shall be classified into the following classes:

Class 1. Corporations incorporated or continued by or under the authority of an Act of a legislature of a province of Canada.

Class 2. Corporations incorporated or continued by or under the authority of an Act of the Parliament of Canada including corporations incorporated under an ordinance of the Yukon or Northwest Territories.

Class 3. Corporations incorporated or continued under the laws of a jurisdiction outside of Canada.

Idem

(2) Corporations incorporated under an ordinance of the Northwest Territories but governed by the corporation laws of a province are corporations within class 1.

Director

3. There shall be a Director appointed by the Minister who shall perform such duties and have such powers as are assigned to him by this Act.

Where
licence
not required
R.S.O. 1980,
c. 96

4.—(1) Subject to this Act, the *Corporations Information Act* and any other Act, an extra-provincial corporation within class 1 or 2 may carry on any of its business in Ontario without obtaining a licence under this Act.

Carrying on
business
without
licence
prohibited

(2) No extra-provincial corporation within class 3 shall carry on any of its business in Ontario without a licence under

this Act to do so, and no person acting as representative for or agent for any such extra-provincial corporation shall carry on any of its business in Ontario unless the corporation has a licence under this Act.

5.—(1) An extra-provincial corporation may make an application for a licence, an amended licence or a termination of licence by sending to the Director two originals of the application signed by a director or officer of the corporation, all other required documents and the prescribed fee.

Application
for licence,
etc.

(2) Where the Director receives an application in accordance with subsection (1) he may endorse on each original a licence, amended licence or a termination of the licence, setting out the day, month and year of endorsement and a corporation number and, where he so endorses, he shall,

Where
Director
endorses

- (a) file one original of the application with the endorsement;
- (b) send to the corporation or its representative one original of the application with the endorsement thereon; and
- (c) publish notice of the endorsement in *The Ontario Gazette*.

(3) An endorsement under subsection (2) may be dated as of the date the Director receives the originals of any application together with all other required documents executed in accordance with this Act and the prescribed fees or as of any later date acceptable to the Director specified by the person who submitted the application.

Date of
endorsement

(4) An endorsement under subsection (2) is effective on the date shown thereon notwithstanding that any action required to be taken by the Director under this Act with respect to the endorsement of the application and filing by him is taken at a later date.

When
endorsement
effective

(5) The Director may make a licence or an amended licence subject to restrictions on the business of a corporation and to such other limitations or conditions as are specified in the licence or amended licence.

Restrictions
on licence

6.—(1) Where the Director refuses to endorse any application required by this Act to be endorsed by him before it becomes effective, he shall give written notice to the person who delivered the application of his refusal, specifying the reasons therefor.

Where
endorsement
refused

Idem (2) Where, within six months after an application referred to in subsection 5 (1) has been sent to the Director, the Director has not endorsed the application, he shall be deemed for the purposes of section 8 to have refused to endorse it.

Director may cancel licence **7.**—(1) Where sufficient cause is shown, the Director, after giving an extra-provincial corporation within class 3 an opportunity to be heard, may by order cancel the licence of the corporation upon such date as is fixed in the order.

Review by Director (2) If no proceedings have been taken under section 8, the Director may at any time review an order made under subsection (1) and may affirm, revoke or vary any such order if in his opinion it is appropriate to do so.

Interpretation (3) In this section, “sufficient cause” includes,

- (a) failure to pay any prescribed fee;
- (b) failure to comply with section 19;
- (c) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*; and
- (d) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act* in circumstances where cancellation of the licence is in the public interest.

R.S.O. 1980, c. 96

R.S.C. 1970, c. C-34
R.S.O. 1980, c. 400

Appeal **8.**—(1) A person aggrieved by a decision of the Director,

- (a) to refuse to endorse an application;
- (b) to make or refuse to make an order under section 11;
- (c) to cancel a licence under section 7 or subsection 12 (2);
- (d) to require that a corrected licence be endorsed under section 18; or
- (e) to impose conditions on a licence or amended licence,

may appeal to the Divisional Court.

(2) The Director shall certify to the registrar of the Divisional Court, Certification
by Director

- (a) the decision of the Director together with a statement of the reasons therefor;
- (b) the record of any hearing; and
- (c) other material that is relevant to the appeal.

(3) The Director is entitled to be heard by counsel or otherwise upon the argument of an appeal under this section. Director may
be heard

(4) Where an appeal is taken under this section, the court may direct the Director to make such decision or do such other act that the Director is empowered to do under this Act, as the court thinks proper, having regard to the material and submissions before it. Court order

(5) Notwithstanding an order of the court under subsection (4), the Director has power to make any further decision where he is presented with new material or where there is a material change in the circumstances and every such decision is subject to this section. Further
orders by
Director

9. An extra-provincial corporation may, subject to its incorporating instrument, the *Corporations Information Act* and any other Act, use and identify itself in Ontario by a name other than its corporate name and, in the case of an extra-provincial corporation within class 3, may be licensed to use such name. Use of other
name
R.S.O. 1980,
c. 96

10.—(1) Notwithstanding section 9 and subject to subsection (2), an extra-provincial corporation within class 1 or 3 shall not use or identify itself in Ontario by a name, Where name,
etc., likely
to deceive

- (a) that contains a word or expression prohibited by the regulations;
- (b) that is the same as or, except where a number name is used, similar to,
 - (i) the name of a known,
 - (A) body corporate,
 - (B) trust,
 - (C) association,

(D) partnership,

(E) sole proprietorship, or

(F) individual,

whether in existence or not, or

- (ii) the known name under which any body corporate, trust, association, partnership, sole proprietorship or individual carries on its business or identifies itself,

if the use of that name would be likely to deceive; or

- (c) that does not meet the requirements prescribed by the regulations.

Exception

(2) An extra-provincial corporation within class 1 or 3 may use or identify itself in Ontario by a name described in clause (1) (b) upon compliance with such conditions as may be prescribed.

Filing material

(3) An extra-provincial corporation to which this section applies shall file with the Director such documents relating to the name or proposed name as may be prescribed.

Where contravention

11.—(1) If an extra-provincial corporation within class 1 or 3, through inadvertence or otherwise, uses or identifies itself by a name contrary to section 10, the Director may, after giving the extra-provincial corporation an opportunity to be heard, order it to cease using the name in Ontario and, where the name is contained in a licence, the Director may order that the corporation apply for an amended licence under a different name within the time specified in the order.

Director may apply for order under s. 14

(2) Where an extra-provincial corporation within class 1 fails to comply with an order made under subsection (1), the Director may apply to the Court for an order under section 14.

Director may cancel licence

(3) Where an extra-provincial corporation within class 3 fails to apply for an amended licence pursuant to an order under subsection (1), the Director may cancel the licence.

Where change of name or jurisdiction

12.—(1) An extra-provincial corporation within class 3 shall make application for an amended licence where,

- (a) it has changed its name or has been ordered to change its name under section 11; or
- (b) it has continued under the laws of another jurisdiction.

(2) Where an extra-provincial corporation within class 3 has not carried on any of its business in Ontario for any two consecutive years, the extra-provincial corporation shall make application for termination of its licence or, if it does not do so, the Director, upon giving the corporation an opportunity to be heard, may by order cancel the licence.

Where corporation ceases to carry on business

13.—(1) Where a licence contains an error,

Endorsement in error

- (a) the corporation shall, upon the request of the Director and after being given an opportunity to be heard, return the licence; or
- (b) the corporation may apply to the Director for a corrected licence and upon such resolutions being passed and other steps taken as the Director may require,

the Director may endorse a corrected licence.

(2) A corrected licence endorsed under subsection (1) may bear the date of the licence it replaces.

Date on corrected licence

(3) Where a correction made under subsection (1) is material, the Director shall forthwith give notice of the correction in *The Ontario Gazette*.

Notice of correction

14.—(1) The Director may apply to the court for an order prohibiting an extra-provincial corporation within class 1 from carrying on its business in Ontario or such other order as he may think fit and, where sufficient cause exists, the court may make an order under subsection (2).

Court order

(2) Upon an application under this section the court may make any interim or final order it thinks fit.

Idem

(3) In subsection (1), “sufficient cause” includes,

Interpretation

- (a) failure to comply with a request under section 5 or a notice under section 8 of the *Corporations Information Act*;

R.S.O. 1980, c. 96

R.S.C. 1970,
c. C-34
R.S.O. 1980,
c. 400

- (b) a conviction of the extra-provincial corporation for an offence under the *Criminal Code* (Canada) or an offence as defined in the *Provincial Offences Act*, in circumstances where an order of prohibition is in the public interest; and

- (c) failure to comply with an order made under section 11.

Notice not
deemed

15. No person is affected by or is deemed to have knowledge of the contents of a document concerning an extra-provincial corporation by reason only that the document has been filed with the Director.

Certificate

16. The Director shall, upon payment of the prescribed fee, issue a certificate certifying,

- (a) as to the endorsement or non-endorsement of a licence for any corporation;
- (b) as to the filing or non-filing of any document or material required or permitted to be filed under this Act; or
- (c) that a person named in the certificate on the date or during the period specified in the certificate is shown on the records of the Ministry as an officer or agent for service of the corporation named in the certificate.

Delegation
by Director

17.—(1) The Director may delegate in writing any of his duties or powers under this Act to any public servant in the Ministry.

Signing

(2) Where this Act requires or authorizes the Director to endorse a licence or to certify any fact, the licence or certificate shall be signed by the Director or any other person designated for the purpose by the regulations.

Evidence

(3) A licence or certificate referred to in subsection (2) or a certified copy thereof when introduced as evidence in any civil, criminal or administrative action or proceeding is *prima facie* proof of the facts so certified without personal appearance to prove the signature or official position of the person appearing to have signed the endorsed licence or certificate.

Reproducing
signature

(4) For the purposes of subsections (2) and (3), any signature authorized under this section may be printed or otherwise mechanically reproduced.

18.—(1) The Director may require any fact relevant to the performance of his duties under this Act or the regulations to be verified by affidavit or otherwise.

Verification
by affidavit

(2) For the purpose of holding a hearing under this Act, the Director may administer oaths to witnesses and require them to give evidence under oath.

Evidence
under oath

19.—(1) Every extra-provincial corporation within class 3 that carries on its business in Ontario shall ensure the continuing appointment, at all times, of an individual, of the age of eighteen years or older, who is resident in Ontario or a corporation having its head office or registered office in Ontario as its agent for service in Ontario on whom service of process, notices or other proceedings may be made and service on the agent shall be deemed to be service on the corporation.

Agent for
service

(2) The appointment shall be in the prescribed form and shall accompany the application for a licence.

Appointment
form

(3) Where the name, address or any other particular set out in the appointment of an agent changes or where an agent is substituted, the extra-provincial corporation shall forthwith file a revised appointment in the prescribed form with the Director.

Revised
appointment

(4) Any matter sent by the Director by prepaid post,

Service by
Director

(a) to an agent referred to in subsection (1) addressed to him at the latest address shown on the records of the Director; or

(b) to the head or registered office of the extra-provincial corporation at the latest address shown on the records of the Director,

shall be deemed to have been served on the extra-provincial corporation on the fifth business day after the day of mailing.

20.—(1) Every person who, without reasonable cause,

Penalty

(a) contravenes this Act or the regulations;

(b) contravenes a condition of a licence; or

(c) fails to observe or comply with an order, direction or other requirement made under this Act or the regulations,

is guilty of an offence and on conviction is liable to a fine of not more than \$2,000 or if such person is a corporation to a fine of not more than \$25,000.

Idem

(2) Where an extra-provincial corporation is guilty of an offence under subsection (1), every director or officer of the corporation and every person acting as its representative in Ontario who authorized, permitted or acquiesced to such offence is also guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Ability to
maintain
action

21.—(1) An extra-provincial corporation within class 3 that is not in compliance with section 19 or has not obtained a licence when required by this Act, is not capable of maintaining any action or any other proceeding in any court or tribunal in Ontario in respect of any contract made by it.

Correcting
default

(2) Where a default referred to in subsection (1) has been corrected, an action or other proceeding may be maintained as if the default had been corrected before the institution of the action or other proceeding.

Power to
hold land

22. Every corporation,

- (a) within class 1 or 2;
- (b) within class 3 that has a licence under this Act; or
- (c) that is exempt from the licensing requirement under this Act,

has power to acquire, hold and convey any land or interest therein in Ontario necessary for its actual use and occupation or for carrying on its undertaking.

Effect of
licence under
R.S.O. 1980,
c. 95

23.—(1) Where a licence has been issued to an extra-provincial corporation within class 3 under Part VIII of the *Corporations Act* or a predecessor thereof,

- (a) the licence remains in effect and shall be deemed to have been endorsed under this Act;
- (b) the powers of the extra-provincial corporation shall be deemed to be restricted as set out in the existing licence; and
- (c) the attorney for service previously appointed continues in office and the provisions of this Act with respect to agents for service apply.

(2) All extra-provincial licences issued under Part VIII of the *Corporations Act* or a predecessor thereof except licences referred to in subsection (1) are cancelled on the day this section comes into force.

Licences
cancelled
R.S.O. 1980,
c. 95

24.—(1) In any other Act, unless the context otherwise requires,

References in
other Acts

- (a) a reference to an extra-provincial corporation is deemed to be a reference to an extra-provincial corporation under this Act; and
- (b) a reference to an extra-provincial corporation that is licensed or required to be licensed under Part VIII of the *Corporations Act* means an extra-provincial corporation within class 1 or 3.

(2) Where a corporation within class 1 or 2 would enjoy an exemption or a benefit under another Act if it had an extra-provincial licence, the corporation shall be deemed to have a licence for the purpose of the other Act.

Where
corporation
deemed to
have licence

25. The Lieutenant Governor in Council may make regulations respecting any matter he considers necessary for the purposes of this Act, including, without limiting the generality of the foregoing, regulations,

Regulations

- (a) requiring the payment of fees for any matter that the Director is required or authorized to do under this Act and prescribing the amounts thereof;
- (b) prescribing forms for use under this Act and providing for their use;
- (c) designating officers of the Ministry for the purposes of endorsing licences and issuing certificates as to any fact or certifying true copies of documents required or authorized under this Act;
- (d) respecting names of extra-provincial corporations or classes thereof;
- (e) prohibiting the use of any words or expressions in a corporate name;
- (f) defining any word or expression used in clause 10 (1) (b);
- (g) prescribing requirements for the purposes of clause 10 (1) (c);

- (h) prescribing conditions for the purposes of subsection 10 (2);
- (i) prescribing the documents relating to names to be filed with the Director under subsection 10 (3);
- (j) respecting the evidence required upon the application for a licence under this Act including evidence as to the incorporation of the extra-provincial corporation, its powers, objects and existence as a valid and subsisting corporation;
- (k) respecting the appointment and continuance by extra-provincial corporations of an agent for service on whom service or process notices or other proceedings may be made and the powers to be conferred on such agent;
- (l) prescribing the conditions and limitations that may be specified in licences;
- (m) prescribing classes of extra-provincial corporations and exempting any class of extra-provincial corporation from all or any part of the provisions of this Act upon such terms and conditions, if any, as may be prescribed;
- (n) prescribing any matter required by this Act to be prescribed.

Revocation

26. Part VIII of the *Corporations Act*, being chapter 95 of the Revised Statutes of Ontario, 1980, is repealed.

Commencement

27. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

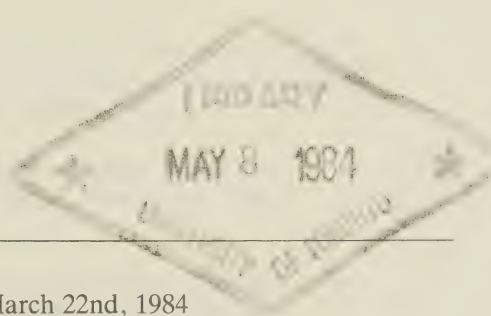
28. The short title of this Act is the *Extra-Provincial Corporations Act, 1984*.

Bill 6

An Act to amend the Corporations Information Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations



1st Reading March 22nd, 1984

2nd Reading April 24th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Committee of the Whole House)

EXPLANATORY NOTES

SECTION 1. The definition of extra-provincial corporation is amended to correspond to the definition in the proposed *Extra-Provincial Corporations Act, 1984*.

SECTION 2.—Subsection 1. Complementary to subsection 3 (1) of the Bill.

Subsection 2. The Act currently prohibits a corporation from carrying on business under a style that contains “Limited”. The *Limited Partnerships Act* permits the use of “Limited Partnership”. The new provision would bring the Act in line with the *Limited Partnerships Act*.

SECTION 3.—Subsection 1. The amendment recognizes the use of “registered office” in place of “head office” in many jurisdictions.

Subsection 2. This is a housekeeping amendment to correct an omission to an internal reference during the revision.

SECTION 4. The list of information to be filed by an extra-provincial corporation is expanded.

Bill 6

1984

An Act to amend the Corporations Information Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (c) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (c) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislature.

2.—(1) Clause 2 (2) (e) of the said Act is amended by inserting after “head” in the first line “or registered”.

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 1, is further amended by adding thereto the following subsection:

- (3a) Subsection (3) does not apply to prohibit the use of the expression “Limited Partnership” in the name or style registered by a corporate partner in a limited partnership. “Limited Partnership” permitted

3.—(1) Clause 3 (1) (f) of the said Act is amended by inserting after “head” in the first line and in the second line “or registered”.

(2) Subsection 3 (3) of the said Act is amended by striking out “section 4” in the fifth line and inserting in lieu thereof “clauses 1 (a) to (f) or section 4, whichever is applicable”.

4. Section 4 of the said Act is repealed and the following substituted therefor:

4. An extra-provincial corporation shall file the following information: Information to be filed

1. The name of the corporation.

2. The date and manner of its incorporation or amalgamation.
3. The name of the jurisdiction under which the corporation was incorporated, amalgamated or continued.
4. The address of the head or registered office of the corporation.
5. The date on which the corporation commenced activities in Ontario.
6. The name and office address of its chief officer or manager in Ontario.
7. The address of its principal office in Ontario.
8. The name and office address of its agent for service in Ontario.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Corporations Information Amendment Act, 1984*.

Bill 6

4TH SESSION, 32ND LEGISLATURE, ONTARIO

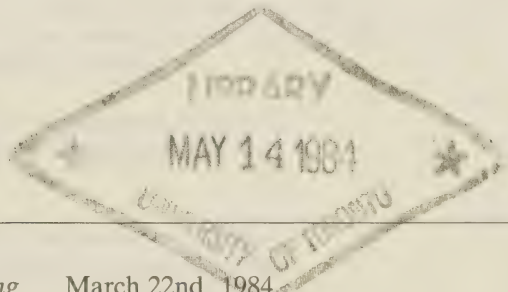
33 ELIZABETH II, 1984

Bill 6

(Chapter 3
Statutes of Ontario, 1984)

An Act to amend the Corporations Information Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



<i>1st Reading</i>	March 22nd, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 6

1984

An Act to amend the Corporations Information Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (c) of the *Corporations Information Act*, being chapter 96 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (c) “extra-provincial corporation” means a corporation, with or without share capital, incorporated or continued otherwise than by or under the authority of an Act of the Legislature.

2.—(1) Clause 2 (2) (e) of the said Act is amended by inserting after “head” in the first line “or registered”.

(2) Section 2 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 23, section 1, is further amended by adding thereto the following subsection:

(3a) Subsection (3) does not apply to prohibit the use of the expression “Limited Partnership” in the name or style registered by a corporate partner in a limited partnership. “Limited Partnership” permitted

3.—(1) Clause 3 (1) (f) of the said Act is amended by inserting after “head” in the first line and in the second line “or registered”.

(2) Subsection 3 (3) of the said Act is amended by striking out “section 4” in the fifth line and inserting in lieu thereof “clauses 1 (a) to (f) or section 4, whichever is applicable”.

4. Section 4 of the said Act is repealed and the following substituted therefor:

4. An extra-provincial corporation shall file the following information: Information to be filed

1. The name of the corporation.

2. The date and manner of its incorporation or amalgamation.
3. The name of the jurisdiction under which the corporation was incorporated, amalgamated or continued.
4. The address of the head or registered office of the corporation.
5. The date on which the corporation commenced activities in Ontario.
6. The name and office address of its chief officer or manager in Ontario.
7. The address of its principal office in Ontario.
8. The name and office address of its agent for service in Ontario.

Commence-
ment

5. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

6. The short title of this Act is the *Corporations Information Amendment Act, 1984*.

Bill 7

An Act to amend the Family Law Reform Act

Mr. Wrye

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to ensure that all property owned by one or both spouses is considered a family asset, to be divided equally on divorce or permanent separation unless the spouses have made a domestic contract providing for a different result. This would apply to pensions, investments and business and professional assets as well as to the matrimonial home and other assets hitherto considered family assets. The court's discretion to divide family assets unequally is limited to cases in which equal division would be inequitable having regard to the duration of the marriage or the extent to which property was acquired after the spouses separated.

Bill 7

1984

An Act to amend the Family Law Reform Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 3 (b) of the *Family Law Reform Act*, being chapter 152 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (b) “family assets” means all property owned by a spouse or both spouses, whether acquired before or after the spouses entered into the marriage, and includes,
 - (i) property over which a spouse has, either alone or in conjunction with another person, a power of appointment exercisable in favour of himself or herself, and
 - (ii) property disposed of by a spouse but over which the spouse has, either alone or in conjunction with another person, a power to revoke the disposition or a power to consume, invoke or dispose of the property,

but does not include property that the spouses, in a domestic contract, have agreed to exclude from the family assets.

2.—(1) Subsections 4 (4) and (5) of the said Act are repealed and the following substituted therefor:

(4) The court may make a division of family assets resulting in shares that are not equal where the court is of the opinion that a division of the family assets in equal shares would be inequitable, having regard to,

Variation of
division

- (a) the duration of the period of cohabitation under the marriage; or

- (b) the extent to which property was acquired by one spouse after the spouses separated.

Purpose

(5) The purpose of this section is to recognize that child care, household management and financial provision are the joint responsibilities of the spouses and that inherent in the marital relationship there is joint contribution, whether financial or otherwise, by the spouses to the assumption of these responsibilities, entitling each spouse to an equal division of the family assets, subject to the equitable considerations set out in subsection (4).

(2) Subsection 4 (6) of the said Act is repealed.

3. Section 8 of the said Act is repealed.

4. Section 9 of the said Act is amended by striking out “4, 7 or 8” in the first line and inserting in lieu thereof “4 or 7”.

5. Section 12 of the said Act is repealed and the following substituted therefor:

Application
of Part

12. This Part applies notwithstanding that,

- (a) the spouses entered into the marriage before the 1st day of June, 1984;
- (b) the property in issue was acquired before that day;
or
- (c) a proceeding to determine the rights as between the spouses in respect of property has been commenced or adjudicated before that day.

Commence-
ment

6. This Act comes into force on the 1st day of June, 1984.

Short title

7. The short title of this Act is the *Family Law Reform Amendment Act, 1984*.

Bill 8

An Act to amend the Liquor Control Act

Mr. Boudria

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would allow the Liquor Control Board to permit small independent grocers to sell Ontario wine.

Bill 8**1984****An Act to amend the Liquor Control Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (f) “small grocery store” means a store that sells groceries by retail and in which the total area used for serving the public or selling or displaying all goods to the public is not more than 1,000 square metres;
- (g) “small independent grocer” means a business that is under the ownership of a person or persons, other than a corporation that offers its shares to the public, and that sells groceries by retail at not more than four small grocery stores in separate locations.

2. Section 3 of the said Act is amended by adding thereto the following clause:

- (ea) to issue permits to small independent grocers to sell Ontario wine by retail in small grocery stores, and to authorize the sale of Ontario wine to small independent grocers and fix the wholesale and retail prices for the purpose.

3. Section 8 of the said Act is amended by adding thereto the following clause:

- (h) requiring small grocers who sell Ontario wine to have on hand for sale groceries of a specified monetary value at all times, and specifying the monetary value.

4. This Act comes into force on the day it receives Royal Assent. Commencement

Short title

5. The short title of this Act is the *Liquor Control Amendment Act, 1984*.

Bill 9

An Act to amend the Liquor Control Act

Mr. Boudria

1st Reading March 22nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would allow the Liquor Control Board to permit small independent grocers to sell beer.

Bill 9**1984****An Act to amend the Liquor Control Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (f) “small grocery store” means a store that sells groceries by retail and in which the total area used for serving the public or selling or displaying all goods to the public is not more than 1,000 square metres;
- (g) “small independent grocer” means a business that is under the ownership of a person or persons, other than a corporation that offers its shares to the public, and that sells groceries by retail at not more than four small grocery stores in separate locations.

2. Section 3 of the said Act is amended by adding thereto the following clause:

- (ea) to issue permits to small independent grocers to sell beer by retail in small grocery stores, and to authorize the sale of beer to small independent grocers and fix the wholesale and retail prices for the purpose.

3. Section 8 of the said Act is amended by adding thereto the following clause:

- (h) requiring small grocers who sell beer to have on hand for sale groceries of a specified monetary value at all times, and specifying the monetary value.

4. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

Short title

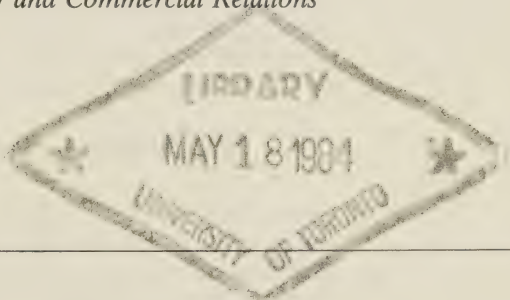
5. The short title of this Act is the *Liquor Control Amendment Act, 1984*.

Bill 11

(Chapter 4
Statutes of Ontario, 1984)

An Act to amend the Liquor Licence Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



<i>1st Reading</i>	March 26th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 11

1984

An Act to amend the Liquor Licence Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clauses 1 (j) and (o) of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

- (j) "Ontario wine" means,
 - (i) wine produced from grapes, cherries, apples or other fruits grown in Ontario or the concentrated juice thereof and includes Ontario wine to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario,
 - (ii) wine produced by the alcoholic fermentation of Ontario honey, with or without the addition of caramel, natural botanical flavours or the distillate of Ontario honey wine, or
 - (iii) wine produced from a combination of,
 - (A) apples grown in Ontario or the concentrated juice thereof to which is added herbs, water, honey, sugar or the distillate of Ontario wine or cereal grains grown in Ontario, and
 - (B) the concentrated juice of apples grown outside of Ontario,

in such proportion as is prescribed by regulation;

.

R.S.O. 1980,
c. 274

- (o) "Tribunal" means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*.

2. Section 6 of the said Act is amended by adding thereto the following subsections:

Limit on
hearings

(5) Where the issuance of a licence is refused on the grounds set out in clause (1) (g), no further application may be made for a licence for the same premises within two years after the completion of the public hearing.

Exception

(6) Where the Board is satisfied that there has been significant change in the circumstances that pertained at the time of the application that led to the hearing under subsection (3), it may permit a re-application within the two-year period referred to in subsection (5).

3. Section 13 of the said Act is repealed.

4. Section 15 of the said Act is repealed.

5. Section 17 of the said Act is repealed and the following substituted therefor:

Decision of
Tribunal
final
R.S.O. 1980,
c. 274

17. Notwithstanding subsection 11 (1) of the *Ministry of Consumer and Commercial Relations Act*, the decision of the Tribunal respecting the issuance of or refusal to issue a licence or permit or refusal to approve the transfer of a licence is final.

6. Subsection 18 (3) of the said Act is repealed and the following substituted therefor:

Powers of
court
on appeal
R.S.O. 1980,
c. 274

(3) Notwithstanding subsection 11 (5) of the *Ministry of Consumer and Commercial Relations Act*, an appeal under this section may be made on questions of law only.

When order
takes
effect

(4) An order of the Tribunal revoking or suspending a licence or a permit takes effect upon the order being made but, where an appeal is made to the Divisional Court, the court may grant a stay until the disposition of the appeal.

7. Section 39 of the said Act is amended by adding thereto the following clause:

- (za) regulating and controlling the possession of liquor sold under any class of licence or permit.

8. Subsection 44 (8) of the said Act is repealed and the following substituted therefor:

(8) A person who sells or supplies liquor to another person on the basis of,

Vendor may
rely on
documen-
tation

- (a) a card in the form prescribed by the regulations purporting to be issued by the Board to the person producing it; or
- (b) such other documentation as is prescribed by the regulations indicating or disclosing information prescribed by the regulations,

where there is no apparent reason to doubt,

- (c) the authenticity of the card or other documentation;
or
- (d) that it was issued to the person producing it,

is not in contravention of subsection (1) or (2).

9. Ontario Regulation 805/81 shall be deemed to have come into force on the 13th day of October, 1981.

10. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

11. The short title of this Act is the *Liquor Licence Amendment Act, 1984*.

Short title

Bill 12

An Act to amend the Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations

1st Reading March 26th, 1984
2nd Reading
3rd Reading
Royal Assent

Bill 12

An Act to amend the Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

<i>1st Reading</i>	March 26th, 1984
<i>2nd Reading</i>	
<i>3rd Reading</i>	
<i>Royal Assent</i>	

Bill 12

An Act to amend the Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie

Minister of Consumer and Commercial Relations

1st Reading March 26th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1.—Subsection 1. Currently, membership on the Tribunal is limited to six. The provision, as recast, removes the limit and thereby allows for a greater number to be appointed.

Subsections 2 and 5. The Act currently provides for consultation with industries registered under any Act, this provision is being expanded to include industries licensed under any Act.

Subsections 3 and 4. The quorum for the Tribunal is three members. The new subsection 7 (6a) of the Act would enable the chairman to alter the quorum in specific circumstances. Subsection 7 (6), as recast, does away with the need for either the chairman or vice-chairman to be present to make up a quorum.

SECTION 2.—Subsection 1. The section of the Act is recast to permit members of the Tribunal to examine, prior to a hearing, filed material.

Subsection 2. The new provision enables a hearing to continue with a member whose term has expired or who is no longer engaged in the industry that he was appointed to represent.

SECTION 3. Self-explanatory.

Bill 12

1984

**An Act to amend the
Ministry of Consumer and Commercial Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 7 (3) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Tribunal shall consist of not fewer than three members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members, who shall be a full-time member, as chairman and may appoint one or more of such members as vice-chairmen. Members

(2) Subsection 7 (4) of the said Act is amended by inserting after “registered” in the third line “or licensed”.

(3) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

(6) Subject to subsections (6a) and (7), three members of the Tribunal constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership. Quorum

(4) Section 7 of the said Act is amended by adding thereto the following subsection:

(6a) Notwithstanding subsection (6), where the chairman, with the consent of the parties, so declares in writing, the quorum of the Tribunal in respect of any matter specified in the declaration shall be the number of members stated in the declaration and subsection (7) does not apply to a matter determined under this subsection. Idem

(5) Subsection 7 (8) of the said Act is amended by inserting after “registration” in the second line “licensing”.

2.—(1) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

Information
available
to members

(2) Members of the Tribunal holding a hearing shall not have taken part in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but, members may, independently of each other, examine prior to the hearing any material required to be filed with the Tribunal by the parties to the proceedings by any Act or any regulations made thereunder, and the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to law.

(2) Section 10 of the said Act is amended by adding thereto the following subsection:

Member to
complete
hearing

(6a) Where during a hearing before the Tribunal, a member of the Tribunal sitting for the hearing,

(a) who was appointed under subsection (4), ceases to be engaged in the industry that he was appointed to represent; or

(b) has his term of office expire,

before the hearing is completed, the member shall remain a member of the Tribunal for the purpose of completing the hearing in the same manner as if he had not ceased to be engaged in the industry or his term of office had not expired.

3. The said Act is amended by adding thereto the following sections:

Disclosure of
information

14.—(1) No provision in any Act shall be construed so as to prohibit an employee of the Ministry from disclosing any information that he acquires in the course of his employment,

(a) to another employee of the Ministry where the information disclosed relates to the administration of an Act for which the Minister is responsible; or

(b) to a peace officer where the employee has reason to believe that a criminal offence may have been committed.

(2) In this section, an employee of the Ministry includes an employee of any agency, board or commission for which the Minister is responsible.

Interpretation

15. The Lieutenant Governor in Council may make regulations respecting the conduct of and governing the practice and procedure of Tribunal proceedings.

Regulations

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

5. The short title of this Act is the *Ministry of Consumer and Commercial Relations Amendment Act, 1984*.

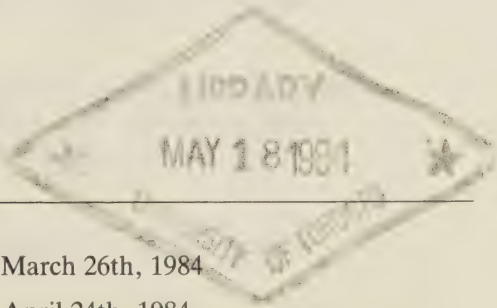
Short title

Bill 12

(Chapter 5
Statutes of Ontario, 1984)

An Act to amend the
Ministry of Consumer and Commercial Relations Act

The Hon. R. G. Elgie
Minister of Consumer and Commercial Relations



1st Reading	March 26th, 1984
2nd Reading	April 24th, 1984
3rd Reading	April 26th, 1984
Royal Assent	May 1st, 1984

Bill 12

1984

**An Act to amend the
Ministry of Consumer and Commercial Relations Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 7 (3) of the *Ministry of Consumer and Commercial Relations Act*, being chapter 274 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) The Tribunal shall consist of not fewer than three members appointed by the Lieutenant Governor in Council, and the Lieutenant Governor in Council shall appoint one of such members, who shall be a full-time member, as chairman and may appoint one or more of such members as vice-chairmen. Members

(2) Subsection 7 (4) of the said Act is amended by inserting after “registered” in the third line “or licensed”.

(3) Subsection 7 (6) of the said Act is repealed and the following substituted therefor:

(6) Subject to subsections (6a) and (7), three members of the Tribunal constitute a quorum and may exercise all the powers of the Tribunal notwithstanding any vacancy in the membership. Quorum

(4) Section 7 of the said Act is amended by adding thereto the following subsection:

(6a) Notwithstanding subsection (6), where the chairman, with the consent of the parties, so declares in writing, the quorum of the Tribunal in respect of any matter specified in the declaration shall be the number of members stated in the declaration and subsection (7) does not apply to a matter determined under this subsection. Idem

(5) Subsection 7 (8) of the said Act is amended by inserting after “registration” in the second line “or licensing”.

2.—(1) Subsection 10 (2) of the said Act is repealed and the following substituted therefor:

Information
available
to members

(2) Members of the Tribunal holding a hearing shall not have taken part in any investigation of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but, members may, independently of each other, examine prior to the hearing any material required to be filed with the Tribunal by the parties to the proceedings by any Act or any regulations made thereunder, and the Tribunal may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to law.

(2) Section 10 of the said Act is amended by adding thereto the following subsection:

Member to
complete
hearing

(6a) Where during a hearing before the Tribunal, a member of the Tribunal sitting for the hearing,

- (a) who was appointed under subsection (4), ceases to be engaged in the industry that he was appointed to represent; or
- (b) has his term of office expire,

before the hearing is completed, the member shall remain a member of the Tribunal for the purpose of completing the hearing in the same manner as if he had not ceased to be engaged in the industry or his term of office had not expired.

3. The said Act is amended by adding thereto the following sections:

Disclosure of
information

14.—(1) No provision in any Act shall be construed so as to prohibit an employee of the Ministry from disclosing any information that he acquires in the course of his employment,

- (a) to another employee of the Ministry where the information disclosed relates to the administration of an Act for which the Minister is responsible; or

- (b) to a peace officer where the employee has reason to believe that a criminal offence may have been committed.

(2) In this section, an employee of the Ministry includes an employee of any agency, board or commission for which the Minister is responsible.

Interpretation

15. The Lieutenant Governor in Council may make regulations respecting the conduct of and governing the practice and procedure of Tribunal proceedings.

Regulations

4. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

5. The short title of this Act is the *Ministry of Consumer and Commercial Relations Amendment Act, 1984*.

Short title

Bill 13

4TH SESSION, 32ND LEGISLATURE, ONTARIO

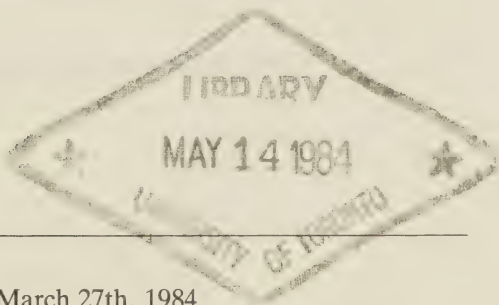
33 ELIZABETH II, 1984

Bill 13

(Chapter 6
Statutes of Ontario, 1984)

An Act to amend the Ombudsman Act

The Hon. R. McMurtry
Attorney General



<i>1st Reading</i>	March 27th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 13**1984****An Act to amend the Ombudsman Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 4 of the *Ombudsman Act*, being chapter 325 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

4.—(1) Subject to subsection (2), the Ombudsman shall hold office for a term of ten years and may be reappointed for a further term or terms, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly.

Term of
office and
removal

(2) The Ombudsman shall retire upon attaining the age of sixty-five years but, where he attains the age of sixty-five years before he has served five years in office, he shall retire upon serving five years in office.

Retirement

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Ombudsman Amendment Act, 1984*.

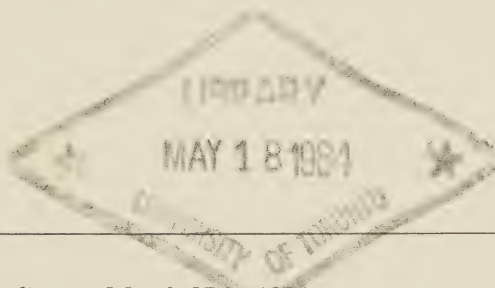
Short title

Bill 14

*(Chapter 7
Statutes of Ontario, 1984)*

Arboreal Emblem Act, 1984

The Hon. A. W. Pope
Minister of Natural Resources



<i>1st Reading</i>	March 27th, 1984
<i>2nd Reading</i>	April 24th, 1984
<i>3rd Reading</i>	April 26th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 14**1984****Arboreal Emblem Act, 1984**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The tree known botanically as *Pinus strobus* Linnaeus and popularly known as the Eastern White Pine is adopted as and shall be deemed to be the arboreal emblem of the Province of Ontario.

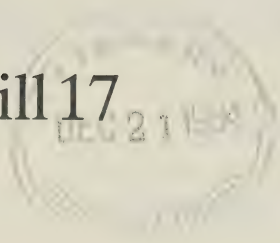
Arboreal
emblem of
Ontario

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Arboreal Emblem Act, 1984*.

Short title



Bill 17

An Act to revise the Election Act

The Hon. T. L. Wells

Minister of Intergovernmental Affairs

1st Reading March 29th, 1984

2nd Reading December 4th, 1984

3rd Reading

Royal Assent

(Reprinted as amended by the Members' Services Committee)

EXPLANATORY NOTES

The Bill is in substantially the form of Bill 153, introduced and given first reading only, in the last Session of the Legislature. Among the principal features of the Bill are the following:

1. Certain election terms have been changed to more accurately reflect the nature of the proceedings. Set out below is a Table showing the existing expression on the left and on the right the corresponding expression used in the Bill:

FROM	TO
Polling Subdivision	Polling Division
List of Voters	List of Electors
Voter (up to time of voting)	Elector
Assistant Revising Officer	Revision Assistant
Official Count	Official Tabulation

2. The position of official agent has been deleted in view of the provision in the *Election Finances Reform Act* requiring all candidates to appoint a chief financial officer.
3. Any references to time in the Act refer to the time that is in effect locally. (s. 2).
4. Polls will open at 9 a.m. and close at 8 p.m., except in the electoral districts of Kenora and Rainy River, where they will open at 8 a.m. and close at 7 p.m. Polls throughout Ontario will accordingly open and close simultaneously. (s. 40).
5. Employers are to allow polling officials appointed by the returning officer a leave of absence to perform their duties. (s. 6).
6. The minimum election period is thirty-seven days and the maximum is seventy-four days. (s. 9).
7. Effective July 1, 1986, British subjects who are not Canadian citizens will not qualify to vote at an election; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 15).
8. Effective July 1, 1986, British subjects who are not Canadian citizens will not be qualified to be candidates; on the same date, the present requirement of twelve months' residency in Ontario will be reduced to six months' residency. (s. 26).
9. The prohibition against returning officers and election clerks voting is removed.
10. Provision is made for the establishment of polling places in psychiatric facilities. (s. 14).
11. The prohibition against judges voting is removed and removed also is the prohibition against mentally ill persons voting; persons who are inmates in correctional institutions under sentence are disqualified from voting but other inmates may vote by proxy. (ss. 16, 17).
12. The timing of the enumeration of electors is to be decided by the Chief Election Officer. (s. 18).

13. Voting proxy certificates may be obtained up to and including the day immediately preceding polling day; in addition, the grounds upon which a person is entitled to appoint a voting proxy are enlarged and a person may be a voting proxy for only two electors. (s. 17).
14. The category of persons who may represent an applicant at the revision is broadened. (s. 22 (2)).
15. Provision is made for the issuing of a certificate to vote, up to and including the day immediately preceding polling day to any elector whose name does not appear in the polling list. (ss. 22,24).
16. Provision is made for the returning officer to provide to each candidate a list of persons to whom a certificate to vote has been issued. (s. 21 (9)).
17. At the general poll, polling places shall, so far as is reasonably possible, provide level access for wheelchairs; such wheelchair access is mandatory at the advance polls. (ss. 13,44).
18. Landlords of buildings of 100 dwelling units or more, municipalities and school boards must, on the request of a returning officer, make premises under their control available as polling places. (s. 13).
19. The wording of the nomination procedure is changed to include the following requirements:
 - (a) the signatures of twenty-five electors;
 - (b) a deposit of \$200;
 - (c) the undertaking of a candidate to file an application for registration under the *Election Finances Reform Act*. (s. 27).
20. The deadline for providing to the returning officer a list of persons as nominations by candidates for enumerators is extended to seventy-two hours previous to the start of enumeration and the deadline for nominating poll officials is extended to seven days previous to polling day. (ss. 18,39).
21. Provision has been made for additional advance polls in the office of the returning officer on certain specified days between the hours of 11 a.m. and 8 p.m. (s. 44).
22. Advance polls at other locations are to be held on the Thursday, Saturday and Monday immediately preceding polling day; the locations must give access to wheelchairs; no declaration is required of any elector presenting himself at an advance poll. (ss. 44,45).
23. The provision permitting the ballot of an elector who is blind to be marked by a friend is extended to all disabled electors. (s. 55).
24. Provision is continued, in the event of a tie after the official tabulation or after a judicial recount, that the successful candidate will be determined by a casting vote given by the returning officer. (ss. 66,76).
25. The maximum penalties that may be imposed for various election offences are increased; generally from \$1,000 to \$5,000. (ss. 89,96).
26. Sections 142, 143, 161, 162 and 163 of the existing Act are dropped as redundant in light of the *Election Finances Reform Act*.

27. Sections have been added dealing with the office of the Chief Election Officer setting out the manner of appointment of staff, their job classifications, salaries and other benefits. (ss. 113 to 116).
28. Section 6 of the *Legislative Assembly Act*, dealing with the qualification of members, is amended effective on the dissolution of the Legislature that occurs after July 1, 1986; after that date British subjects who are not Canadian citizens will not be qualified to sit and vote as members of the Assembly. (s. 117).

Bill 17**1984****An Act to revise the Election Act****CONTENTS**

Section	Section
1. Definitions	39. Poll Officials
2. References to Time	40. Time of General Poll
3. Oaths	41. Preservation of the Peace
4,5. Administration	42. Secrecy of Proceedings
6. Employees Serving or Voting at Election	43. Voting at One Place Only
7. Returning Officers	44,45. Advance Polls
8. Election Clerk	46,47. Procedure at Poll
9. Dates for Close of Nominations and Polling	48. Marking a Ballot
10. Writs	49. Certificate of Error
11. Proclamation	50. Voting Certificates
12. Polling Divisions	51. Vouching
13. Polling Places	52. Ballot Taken from Poll
14. Hospitals, Psychiatric Facilities, Retirement Homes, Nursing Homes, etc.	53. Declined Ballot
15. Qualification of Electors	54. Cancelled Ballot
16. Persons Disqualified from Voting	55. Disabled Electors
17. Proxies	56. Interpreter at the Poll
18. Enumeration	57,58. Counting the Ballots
19. List of Electors	59. Statement of the Poll
20. Complaint Against Name on List	60. Certificate of Count
21. Revision	61,62. Final Poll Procedure
22. Additions	63. Receipt of Poll Return
23. Corrections	Envelope by Returning Officer
24. Transfers	64-66. Official Tabulation
25. Polling Lists	67. Effect of Irregularities
26. Candidates	68-78. Recount
27,28. Close of Nominations	79. Appeal from Decision on Recount
29. Notice of Poll	80-82. Election Return
30. Withdrawal of Candidate	83-88. Disposition of Election Documents and Material
31. Death of Candidate	89-97. Corrupt Practices and Other Offences
32. Scrutineers	98-110. Contested Elections
33. Ballot Paper	111,112. Election Fees and Expenses
34-36. Ballots	113-116. Office of the Chief Election Officer
37. Ballot Boxes	117. Miscellaneous
38. Voting Screens	118. Repeal
	119. Commencement
	120. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Interpretation

1.—(1) In this Act,

- (a) “advance poll” means a poll held under section 44;
- (b) “ballot” means a ballot used for the conduct of an election;
- (c) “Board” means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;
- (d) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (e) “corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
- (f) “election” means an election of a member or members to serve in the Assembly;
- (g) “elector” means a person who is entitled under this Act to vote at an election to the Assembly;
- (h) “electoral district” means an electoral district as set out in the *Representation Act*;
- (i) “general election” means an election in respect of which election writs are issued for all electoral districts;
- (j) “polling division” means a polling division established by the returning officer in accordance with this Act;
- (k) “polling list” means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act;

R.S.O. 1980,
c. 235

R.S.C. 1970,
c. C-34

R.S.O. 1980,
c. 450

- (l) “prescribed” means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;
- (m) “registered candidate” means a candidate registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*; R.S.O. 1980, c. 134
- (n) “registered party” means a political party registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;
- (o) “residence”, and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which, whenever he is absent, he has the intention of returning, subject to the following rules:
1. The place where a person’s family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
 3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
 - i. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - ii. he has no quarters in any other electoral district to which he might at will remove;
- (p) “voter” means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his ballot and so declared.

Idem

➡ (2) In this Act, words importing the masculine gender only include females as well as males, and the converse. ⬆

TIME

References
to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be.

OATHS

Oaths and
statutory
declarations,
who may
take

3.—(1) Except where otherwise provided, an oath or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, deputy returning officers and poll clerks are empowered to take such oaths or declarations at the poll.

No charge
for taking
oath or
declaration

(2) Every person taking an oath or statutory declaration under or for the purposes of this Act shall do so gratuitously.

ADMINISTRATION

Appointment
of C.E.O.
and
A.C.E.O.

4.—(1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration
of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary of
C.E.O. paid
out of
Consolidated
Revenue
Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and
duties of
C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and
duties of
A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant and if the Chief Election Officer is absent or through illness is unable to perform the duties of his office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment
of Acting
C.E.O.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, he may make such appointments or give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

In cases of
emergency,
etc.

(8) The Chief Election Officer may delegate in writing to any officer on his staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to him by this Act.

Delegation

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Forms

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature.

Adminis-
trative
in nature

5.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons
excluded
from being
returning
officers,
etc.

1. Judges of federal or provincial courts.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.

6. Persons who have at any time been found guilty of a corrupt practice.

Validity of
election
not affected

- (2) A contravention of this section does not affect the validity of the election.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Leave to be
granted to
employee
to serve

- 6.—(1) Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official to enable him to perform his duties and the employer may not dismiss an employee who has been so appointed.

Remuneration

- (2) The employer is not required to remunerate his employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to
have three
consecutive
hours for
voting

- (3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his employment do not allow for three consecutive hours, he may request that his employer allow him such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction
from pay
prohibited

- (4) No employer shall make any deduction from the pay of any employee or impose upon or exact from him any penalty by reason of his absence from his work during the consecutive hours that the employer is required to allow him under subsection (3).

Time off
best suiting
convenience
of employer

- (5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer.

RETURNING OFFICERS

Appointment
of R.O.

- 7.—(1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications
of R.O.

- (2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or
incapacity
to act

- (3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Notification of appointment

(5) Every returning officer immediately upon receiving notice of his appointment shall take the prescribed oath, faithfully to perform his duties without partiality, fear, favour or affection.

Oath of R.O.

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his duties.

Clerical and other assistance

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and he or his election clerk or his delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Powers and duties of R.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Instructions from C.E.O.

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (10) or (11).

Term of office

(10) The Lieutenant Governor in Council may remove from office any returning officer who,

Removal from office

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

(11) The Chief Election Officer may, at any time during an election period, remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently his duties, or any of them, under this Act.

Idem

(12) No person shall obstruct or interfere with the returning officer or his staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act.

Obstruction

ELECTION CLERK

8.—(1) Forthwith upon his appointment, the returning officer may appoint in writing a person who is of voting age, a

Election clerk

Canadian citizen and resident in Ontario to be his election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment.

Relatives

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse of the returning officer shall be appointed as election clerk without the prior approval of the Chief Election Officer.

Appointment of new election clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his duties during an election and has not been replaced, shall act in his stead as the returning officer.

Oath of election clerk

(5) The election clerk before entering upon his duties shall take the prescribed oath.


DATES FOR CLOSE OF NOMINATIONS AND POLLING



Close of nominations and election day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,

(a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday, that is not more than sixty and not less than twenty-three days after the date of the writs of election; and

(b) for the taking of a poll, which day shall be the Thursday, that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week. 

R.S.O. 1980,
c. 219

WRITS

Writs to bear same date

10.—(1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state nomination and polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Endorsement
on writ

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk.

Where
appointment
superseded

PROCLAMATION

11.—(1) Forthwith after receipt of the writ of election, the returning officer shall by proclamation, declare,

Proclamation
by returning
officer

- (a) the dates, place and times during which the list of electors may be revised;
- (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
- (c) the days and hours fixed for holding the advance polls and the general poll.

(2) The returning officer shall cause the proclamation to be printed and copies to be posted in conspicuous places on public or private property in the electoral district and the Chief Election Officer or the returning officer may arrange for the proclamation to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Posting, etc.,
of
proclamation

POLLING DIVISIONS

12.—(1) The returning officer shall divide his electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review his electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries.

Polling
divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of

Description
of polling
divisions

the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division.

POLLING PLACES

Polling
places

13.—(1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of
polling
divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location
of polling
places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When land-
lord, municipi-
pality, school
board, etc.,
to furnish
facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his or its control available as a polling location.

Where
polling places
not to be
R.S.O. 1980,
c. 244

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional
polling
places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

(7) The returning officer shall prepare a list of the polling places within his electoral district showing the location of each by polling division number.

List of
polling
places

(8) Every elector shall have free access to the poll.

Access to
poll

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND
OTHER INSTITUTIONS

14.—(1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situate in an electoral district, a polling place shall be provided in such institution or upon the premises.

Polling places
in hospitals,
etc.

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots.

Voting

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote.

Continuation
of poll

(4) Each candidate and one of his scrutineers may be present at such a polling place except when a ballot is marked under section 55.

Presence of
candidate
and
scrutineer

QUALIFICATION OF ELECTORS

15.—(1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

Electors

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day;
- (d) resides in the electoral district; and
- (e) is not disqualified under this Act or otherwise prohibited by law from voting.

Re-enactment
of (1) (b, c)

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

Effective
date of
re-enactment

(3) Subsection (2) does not come into force until the 1st day of July, 1986.

Evidence of
person
claiming
to be elector

(4) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is *prima facie* proof of the facts declared to.

Requirement
to receive
ballot
and vote

(5) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under the provisions of section 51.

PERSONS DISQUALIFIED FROM VOTING

Disquali-
fication

16. Every person who is an inmate in a penal or correctional institution under sentence of imprisonment is disqualified from voting.

PROXIES

Appointment
of proxy

17.—(1) Where an elector has reason to believe that he or she will be unable to vote at the advance poll or on polling day by reason of,

R.S.C. 1970,
c. N-4

(a) being a member or the spouse or child of a member of the Canadian Forces as defined by the *National Defence Act*; or

(b) being employed in the business of long distance transportation by railway, air, water or motor vehicle; or

(c) business commitments or employer's directions; or

(d) being a person who for medical reasons is physically incapable of attending a polling place; or

(e) being a student duly registered at a recognized education institution; or

(f) being a person participating in a job training or retraining program; or

- (g) being an inmate in a penal or correctional institution, not under sentence of imprisonment,

the elector may apply in writing to vote by proxy and appoint some other elector in the electoral district to vote for him or her at the election.



(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day.

Term of appointment

(3) An elector may not act as proxy for more than two electors.

Limitation

(4) On any day up to and including the day immediately preceding polling day,

Certificate

- (a) a person appointed as a proxy voter under clause (1) (a), (b), (d), (e), (f) or (g); and

- (b) a person appointing a proxy under clause (1) (c) and the person appointed,

shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district.

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote.

Idem

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(7) An elector who has been appointed as a voting proxy is entitled to vote in his own right in his own polling division and, if within the same electoral district, may apply to the returning officer to have his name transferred to the polling list of the place where the proxy vote is to be cast or to have the name of the person appointing the proxy transferred to the polling list of his polling place.

Proxy may vote in own right

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the

Cancellation of appointment

returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more
than
one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

ENUMERATION

Enumeration

18.—(1) Immediately following the issue of the writ for an election, the Chief Election Officer shall designate the period during which an enumeration of electors shall take place and shall advise the returning officer of the date on which the enumeration shall begin.

Nomination
of
enumerators

(2) After the issue of the writ and up to seventy-two hours before the enumeration is to begin,

- (a) the person who apparently will be the candidate at the election of the registered party represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators.

Selection
of
enumerators

(3) The returning officer shall select and appoint two persons of voting age as enumerators for each polling division, and with the approval of the Chief Election Officer may select persons at least sixteen years of age, and shall make such appointments as are necessary so that the enumerators for each polling division represent as far as possible two different political interests.

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district.

Candidates

(5) No person who apparently will be a candidate at the election shall be an enumerator.

(6) Forthwith upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration.

Enumerators;
oath,
supplies

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final.

Enumerators
to act
jointly

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m.

Hours of
enumeration

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit.

Enumerator's
record

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information.

Notice of
inability
to obtain
information

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit.

Enumerators
to have
free access

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act.

Obstruction,
etc., of
enumerators

(13) The returning officer may at any time replace any enumerator by appointing another to act in his place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied.

Replacement
of
enumerator

(14) An enumerator who neglects, omits or refuses to perform any of his duties under this Act or who refuses to com-

Forfeiture
of right
to payment

ply with any direction in writing from the returning officer may forfeit his right to payment for any service or part thereof already rendered.

LIST OF ELECTORS

Preparation
of list of
electors

19.—(1) The enumerators, immediately after the completion of the canvass of their polling division, from their records shall prepare a list of electors legibly typewritten in the prescribed form,

- (a) under headings of thoroughfares by name and in numerical order of residence where such names and numbers are in effect;
- (b) under geographic area or municipal headings in alphabetical order by surname; or
- (c) as directed by the returning officer.

Delivery of
list to R.O.

(2) Not later than four days from the date of their appointment, the enumerators shall,

- (a) certify the total number of names contained in the list; and
- (b) unless otherwise directed by the returning officer, deliver the list to the returning officer together with all used and unused material.

Disposition
of list

(3) On receipt of and having accepted the list of electors from each pair of enumerators, the returning officer shall arrange for,

- (a) one copy of the list to be posted by the enumerators in urban areas in a conspicuous place in their polling division;
- (b) one copy of the list to be retained in the returning office;
- (c) one copy to be furnished as soon as possible to each candidate in the electoral district;
- (d) up to twelve copies of the list to be furnished to each constituency association or candidate in the electoral district; and

- (e) a notice of enumeration, including the poll location, to be mailed to each elector.

(4) Following preparation of the list of electors by the enumerators and up to and including the fourteenth day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer.

Notification
of omitted
electors

(5) The returning officer may appoint pairs of special enumerators for the purposes of subsection (6) from among those who have already acted as such for the pending election or may appoint others in the manner provided by section 18.

Special
enumerators

(6) The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4) and to enumerate such elector and any other electors at that address whose names were also omitted.

Enumeration

(7) On completion of the enumeration, the returning officer shall cause any names obtained under subsection (6) to be added directly to the list of electors compiled during the original enumeration or shall direct the special enumerators to prepare an additional list of electors by polling division number, in the prescribed form.

Addition to
list of
electors

(8) The returning officer shall supply to each candidate, on request, a copy of each list referred to in subsection (7).

Copies

COMPLAINT AGAINST NAME ON LIST

20.—(1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors.

Complaint
for wrongful
entry on list

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Notice to
person
objected to

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the

Hearing of
complaint

person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final.

REVISION

Application
for additions,
corrections,
etc., to list

21.—(1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and his decision is final.

Revision
assistants

(2) The returning officer may appoint his election clerk to assist him and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer.

Revising
agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district who were missed by the enumerators.

Oath

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath.

Grounds
must be
sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before him understands the effect of any statements made in the application.

Procedure
where
application
refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with his reasons and the applicant informed.

Irregularity
not to affect
result of
election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

(8) Where the returning officer or his revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

Interpreter where necessary

(9) The returning officer shall, on request made to him, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

List of persons issued certificate

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(11) A person whose name appears in a list of electors and who wishes to have the entry related to him deleted, must appear before the returning officer and complete a declaration to that effect.

Deletion of name from list

ADDITIONS

22.—(1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf and by statutory declaration substantiate his identity and qualifications as an elector.

Application for certificate to vote

(2) An elector acting on behalf of another under subsection (1) may do so for his child, grandchild, brother, sister, parent, grandparent or spouse but may act for only one additional person and a person who is not an elector may act for only one elector.

For whom elector may act

CORRECTIONS

23.—(1) The returning officer or his assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished to him may make the necessary corrections.

Corrections to list

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the

Mistake in name, etc.

eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath, if required to do so by the deputy returning officer.

TRANSFERS

Change of
residence

24.—(1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf to have his name included in the polling list for the polling division where he now resides.

Proxy voters,
election
officials

(2) Where an elector whose name appears on a polling list for the polling division where he resides and,

(a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or

(b) has been appointed,

(i) to cast a proxy vote at a polling place other than his own but in the same electoral district, or

(ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place.

Notice of
transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made.

POLLING LISTS

Official
polling
list

25.—(1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his direction.

Copy to
D.R.O.'s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day.

CANDIDATES

26.—(1) Every person is qualified to be a candidate who, at the time of signing the consent to nomination,

Who may be candidate

- (a) is of voting age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day; and
- (d) is not disqualified by the *Legislative Assembly Act* or by any other Act.

R.S.O. 1980,
c. 235

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

Re-enactment of (1) (b,c)

- (b) is a Canadian citizen;
- (c) has resided in Ontario for the six months next preceding polling day.

(3) Subsection (2) does not come into force until the 1st day of July, 1986.

Effective date of re-enactment

(4) No person who has been engaged as a returning officer, election clerk, enumerator or revision assistant at the revision of any list of electors to be used at the election, is eligible as a candidate.

Who may not be candidate

(5) No person who has been found guilty within eight years of an election of a corrupt practice or of an offence relating to an election is eligible to be a candidate at the election.

Idem

(6) A candidate may undertake any of the duties that his scrutineer might have undertaken if appointed, or may assist his scrutineer in the performance of such duties, and may be present at any place at which his scrutineer may attend in pursuance of this Act.

Right of candidate to undertake duties of scrutineer

CLOSE OF NOMINATIONS

27.—(1) The close of nominations of candidates shall be 2 p.m. of the day stated as such in the writ of election.

Time for close of nominations

(2) One hour before the close of nominations, the returning officer shall make or cause to be made a pronouncement in the prescribed form and shall read or cause to be read publicly the writ of election.

Procedure on nomination day

Separate
nomination
papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by his consent in writing to the nomination.

Contents of
nomination
papers

(4) The nomination paper of a candidate shall state his name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate.

Deposit

(5) A deposit of \$200 in cash or by cheque made payable to the Chief Election Officer shall be handed to the returning officer at the time the nomination paper is filed.

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a cheque, be refunded to the issuer of the cheque.

How name
to be shown
on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his nomination papers, a candidate shall state in writing to the returning officer how he wishes his name to be shown on the ballot.

Similarity
of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot.

Registration
under
R.S.O. 1980,
c. 134

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he has filed, or an undertaking by the candidate that, prior to polling day, he will file an application for registration with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*.

When
nomination
papers to
be filed

(10) The nomination paper shall be filed with the returning officer at his office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Certificate of R.O. as to regularity

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Nomination paper

(a) the returning officer shall accept and examine the nomination papers; and

acceptance

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the candidate and to the Chief Election Officer but shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

rejection

(13) It is not necessary for a candidate to be present when his nomination paper is filed with the returning officer.

Candidate need not be present

(14) The returning officer shall issue a receipt for any nomination paper accepted by him under subsections (11) and (12).

Receipt

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80.

Election by acclamation

NOTICE OF POLL

29.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Grant of poll

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll.

Notice of grant of polls

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

30.—(1) A candidate may withdraw at any time between filing his nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by himself in the presence of a subscribing witness.

Idem

(2) In the case of a candidate withdrawing after the close of nominations his deposit is forfeited and,

- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80; or
- (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots.

DEATH OF CANDIDATE

Death of
candidate

31.—(1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of
deposit on
death of
candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate.

SCRUTINEERS

Appointment
of scrutineer

32.—(1) A candidate or a person designated in writing by him, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When
scrutineer
may not
challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes.

Number of scrutineers in polling place

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act.

Non-attendance of scrutineers

BALLOT PAPER

33.—(1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a special thread or watermark so placed as to run through each ballot.

Ballot paper

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the number of sheets received to be counted and a receipt issued to the manufacturer.

Declaration by manufacturer

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer.

Custody of ballot paper

BALLOTS

34.—(1) All ballots shall be of the same description and as nearly alike as possible.

Uniformity

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names.

Form of ballot

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name.

Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black.

Idem

Idem

(5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.

Numbering
of ballots

(6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer.

Printing
of ballots

35.—(1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district.

Printer's
name, etc.

(2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the number of sheets of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer.

Count of
ballots and
affidavit

(3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2).

Supply to
D.R.O.

36.—(1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.

Record of
quantity of
ballots
provided

(2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.

Count of
ballots
by D.R.O.

(3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded.

BALLOT BOXES

Ballot
boxes to
be supplied

37.—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering.

How made

VOTING SCREENS

38.—(1) The returning officer shall furnish each deputy returning officer with at least two voting screens.

Voting screens to be furnished

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked.

Privacy when marking ballots

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time.

One elector only at a time

POLL OFFICIALS

39.—(1) At least seven days before polling day, lists of names of electors in the electoral district who are not candidates may be furnished to the returning officer,

Nomination of D.R.O. and poll clerk

- (a) as potential deputy returning officers, by the candidate of the registered party represented by the government of the day; and
- (b) as potential poll clerks, by the candidate of a different political interest, the candidate for which at the next preceding provincial election received the highest number of votes or the next highest number of votes, as the case may be.

(2) From the lists furnished to him as provided by subsection (1), the returning officer shall select and appoint a deputy returning officer and a poll clerk for each polling place so that they represent two different political interests.

Appointment of D.R.O. and poll clerk

(3) If sufficient names from which to select and make the appointment of the poll officials have not been received, the returning officer shall make such appointments as are necessary.

Insufficient nominations

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath and their appointment shall be endorsed upon or attached to the poll record.

Oath

Duties of
poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Forfeiture
of right to
payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or
absence of
D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath.

TIME OF GENERAL POLL

Hours of
polling
generally

40.—(1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central
Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may
establish
different
hours

(3) The Chief Election Officer may at his discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When
voting not
commenced
or
interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his discretion, the Chief Election Officer shall,

- (a) extend the closing time; or
- (b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total.

PRESERVATION OF THE PEACE

Assistance
by justices
and police
officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid him in maintaining peace and order at the election and may appoint as many such other persons as he considers necessary.

SECRECY OF PROCEEDINGS

42.—(1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Who may be in polling places

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath of secrecy.

Oath of secrecy

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place.

Interference with electors

(4) Subject to sections 14 and 55, an elector shall not display his ballot to any person so as to indicate how he has voted.

Elector not to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his ballot to any person so as to indicate how he has voted.

Inducing elector to display ballot

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether he declined to vote.

Communicating information as to how elector is voting

(7) In any legal proceedings no person may be compelled to state for whom he voted or whether he marked his ballot or not.

No person compellable to disclose his vote

VOTING AT ONE PLACE ONLY

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division he shall nevertheless vote only at one polling place.

Person to vote in one division only

ADVANCE POLLS

44.—(1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

Advance polls

- (a) in an office of the returning officer, provided that the ballots have been printed, on the 12th, 10th, 9th, 8th, 6th and 2nd day preceding polling day; and
- (b) at designated other locations on the Thursday, Saturday and Monday immediately preceding polling day.

Advance
polling
places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs.

Time of
poll

(3) The advance polls in an electoral district shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer.

Notice
of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Declaration

45.—(1) Every person offering himself as a voter at the polling place shall be required, before being allowed to vote, to take the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

List of
electors who
have voted

(2) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other
D.R.O. lists

(3) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his right to vote.

Candidates
and
scrutineers

(4) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting
of ballots

(5) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

(6) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

Application

(7) The vouching provisions of section 51 do not apply at an advance poll.

Vouching not to apply at advance poll

PROCEDURE AT THE POLL

46.—(1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Attendance of D.R.O. and poll clerk at polling place

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

Counting ballots at opening of poll

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

D.R.O. to show box empty, then seal it

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll.

Placement of ballot box

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector.

When ballot box may be moved

47.—(1) Every elector upon entering the room or area where the poll is being held shall state his name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

Statement of name, etc., by elector

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy

D.R.O. to initial back of ballot

returning officer shall instruct the elector in the manner of marking and how to refold the ballot.

Where
oath
may be
required

(3) If a deputy returning officer has reason to believe that a person offering to vote is not an elector or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the list, or when requested by a candidate or a scrutineer who is an elector, the deputy returning officer shall administer the prescribed oath to the elector.

Where
elector
alleges he
has
been
personated

(4) If a person representing himself to be an elector applies for a ballot after another person has voted as such elector, he is entitled to receive a ballot after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer, and a note shall be made in the poll record to that effect and of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates.

Elector
refusing to
take oath

(5) An elector who has refused to take an oath when required so to do forfeits his right to vote.

Entry to be
made in
poll record

(6) The poll clerk shall indicate in the poll record opposite the name of each elector, as applicable, if an oath was administered or refused.

MARKING A BALLOT

Mode of
marking
ballot

48.—(1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour.

Mode of
folding and
depositing
ballot

(2) The elector shall then refold his ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall without unfolding it ascertain by examining his initials that it is the same ballot issued to the elector and shall then, in full view of all present, including the elector, place it in the ballot box, and thereupon the poll clerk shall indicate in the poll record that the elector has voted.

Elector to
leave polling
place after
voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place.

CERTIFICATE OF ERROR

49. The returning officer may certify for addition to the polling list, the name of any elector omitted in error, Certificate of error

- (a) upon the elector producing to the returning officer or to the deputy returning officer proof of enumeration; or
- (b) upon the returning officer being satisfied that such person was enumerated or was added at the revision,

and the returning officer shall furnish each candidate with a list of such certifications.

VOTING CERTIFICATES

50.—(1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot. Surrender of certificate

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words “voted under certificate” and shall file the certificate in the envelope of election documents to be returned to the returning officer. Entry in poll record

VOUCHING

51.—(1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his name added to the list and his name shall be added, Where elector's name omitted in rural polling division

- (a) if he takes the prescribed oath as to his eligibility to vote; and
- (b) if he is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath that,
 - (i) he knows the person whose name has been omitted, and
 - (ii) he believes such person to be qualified to be entered on the list.

May vouch
for more
than one
elector

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

Name to be
added to list

(3) The deputy returning officer after taking the prescribed oath shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Right to
vote

(4) The applicant, upon taking the oath and being vouched for, is entitled to vote.

BALLOT TAKEN FROM POLL

Elector not
to take
ballot from
polling
place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits his right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his ballot out of the polling place.

DECLINED BALLOT

Declined
ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits his right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote.

CANCELLED BALLOT

When ballot
may be
replaced

54. A ballot that,

- (a) has been improperly printed;
- (b) has been inadvertently dealt with in such manner that it cannot be used; or
- (c) has been issued to an elector who has marked it other than how he intended to mark it or for any reason objects to it and returns it to the deputy returning officer requesting another,

may be replaced with another ballot by the deputy returning officer who shall immediately write the word "cancelled" upon the back of the first ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record stating the reason for cancelling the ballot.

DISABLED ELECTORS

55.—(1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Disabled elector

(2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector’s ballot for him.

Ballot marked by friend

(3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot was marked.

Declaration to be made by friend

(4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

May act as friend once only

(5) The deputy returning officer shall enter in the poll record opposite the elector’s name the reason why the ballot was marked by him or by a friend of the elector.

Entry in poll record

INTERPRETER AT THE POLL

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot.

When language spoken by elector not understood

COUNTING THE BALLOTS

57.—(1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall

Duties of D.R.O. at close of poll

sign his name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), he shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

What may be
accepted as
valid ballot

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

Where ballot
not to be
rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

Objections
to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered
and
initialled

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer.

How ballots
to be
counted

58.—(1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates
and
scrutineers
may sign
envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals.

STATEMENT OF THE POLL

Statement
to be made
by D.R.O.

59.—(1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition
of statements

(2) The deputy returning officer shall ensure that,

- (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;

- (b) one part is placed in or attached to the poll record;
and
- (c) one part is retained by him.

CERTIFICATE OF COUNT

60. The deputy returning officer shall complete a pre-scribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scrutineer is present the certificates shall be forwarded to the returning officer in the poll return envelope.

Certificate
of result
of poll

FINAL POLL PROCEDURE

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the pre-scribed oath that their duties have been completed.

Polling list,
etc., to be
placed in
poll return
envelope

62.—(1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Delivery of
poll return
envelope
to R.O.

(2) Any candidate or scrutineer present may affix his seal or write his signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Candidate or
scrutineer
may affix
seal

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Registered
mail

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before him the prescribed oath and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer.

Delivery to
be forthwith

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING OFFICER

R.O. to
seal poll
return
envelope

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it.

OFFICIAL TABULATION

Conduct of
official
tabulation
by R.O.

64.—(1) The returning officer, at the place, day and hour stated in his notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to him or from such other sources as may be available to him but without opening any of the sealed envelopes containing ballots.

Adjournment
of official
tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate.

Procedure
when poll
envelopes
lost,
statements
not available,
etc.

65. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question.

66.—(1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes. Declaration of result

(2) If an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared to be elected, the returning officer shall give the casting vote. Casting vote

EFFECT OF IRREGULARITIES

- 67.** No election shall be declared invalid, Irregularities not affecting result
- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
 - (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
 - (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or
 - (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election.

RECOUNT

68. Notice in writing of an application to be made under subsection 70 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district. Notice

Interpretation

69.—(1) In this section and in sections 70 to 80, unless otherwise stated, “judge” means the judge of the county court of the county or of the district court of the provisional judicial district in which the electoral district or any part of it is situate and, where there are two or more judges, the senior judge or, in the case of illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court.

What judge to hold recount when district in two or more counties

(2) Where the electoral district comprises parts of two or more counties or provisional judicial districts any application shall be to and the recount shall take place before the judge of the court of the county or provisional judicial district having the larger or largest population according to the last federal census.

Where recount may be had

70.—(1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) the returning officer has improperly tabulated the votes.

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with the clerk of the county or district court, as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a chartered bank or trust company doing business in Ontario.

Notice

71. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 68.

Notice of time and place of recount

72.—(1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 68 in such manner as the judge directs.

Presence of clerk of court

(2) The judge may require the clerk of the county or district court to be present at the time and place appointed.

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

Who to be present at recount

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer and he is responsible for them subject to any direction given by the judge.

Documents to be produced at recount

(5) At the time and place appointed, the judge shall proceed to make the recount from the original statements of the poll or have opened the sealed envelopes containing,

Procedure by judge

- (a) the ballots that have been counted for each candidate;
- (b) the ballots rejected as to marking; and
- (c) the ballots unmarked by any voters,

and may have opened the sealed envelopes containing,

- (d) the cancelled ballots;
- (e) the declined ballots; and
- (f) the unissued ballots.

73. The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll.

Rules to govern judge at recount

74.—(1) If any person requests him to do so, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Distinguishing disputed ballots

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents.

Sealing up ballots at close of recount

75.—(1) Where a poll return envelope used at a polling place was not available to the returning officer when he made his decision in respect of the number of votes given for a can-

Review of decision of R.O. when documents missing

didate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Powers of judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer.

When judge to certify result of recount

76.—(1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of his recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 79.

Declaration of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote.

Costs

77.—(1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Taxing and allowing costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Supreme Court.

Where judge makes no provision re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Deposits, disposal of

78. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the court of the county or judicial district upon the judge's order for the balance.

APPEAL FROM DECISION ON RECOUNT

Appeal from decision of judge

79.—(1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of notice of appeal

(2) The notice may be served upon the other parties personally, or upon the solicitor who acted for him upon the

recount by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 74 (1), the ballots that are the subject of appeal together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Ballots, etc., to be forwarded to Registrar of Supreme Court

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Allowing copy of certificate of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment for hearing of appeal

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Procedure on hearing of appeal, certificate of result

(7) The judge of the Supreme Court may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid.

Costs of appeal

(8) The judge of the Supreme Court shall tax the costs of the appeal.

Taxing and allowing costs

(9) Where the judge of the Supreme Court makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Idem

ELECTION RETURN

80.—(1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer,

When return to be made

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of his return to each candidate.

Report
by R.O.

(2) The returning officer shall include with his return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he ascertained the votes given for each candidate under section 65, if applicable.

Declaration
by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending his return, and it shall be sent forthwith to the Chief Election Officer.

Application
to compel
R.O. to add
up votes,
make return,
etc.

81.—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

R.S.O. 1980,
c. 224

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application
of
R.S.O. 1980,
c. 223

(2) In other respects the *Judicature Act* and the rules of court made thereunder apply to such application.

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer.

Other rights
and remedies

82. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected.

Notice of
return in
*Ontario
Gazette*

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

83.—(1) Forthwith after making his return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to him by the deputy returning officers, and all documents, papers, and materials in his possession relating to the conduct of the election but excluding those related to enumeration which shall be destroyed.

Shipment to
C.E.O. of
election
documents

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked “Used” or “Unused” and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate.

Endorsement
thereon

84.—(1) The Chief Election Officer shall retain in his possession the used documents transmitted to him by the returning officer under section 83 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

How long to
be retained

(2) If notice is served on the Chief Election Officer under subsection 98 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words “NOT TO BE DESTROYED”.

When
documents
not to be
destroyed

85.—(1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word.

Inspection of
documents

Inspection
of ballots
only under
order of
judge

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When order
to be
granted

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions
of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key.

Evidence as
to
documents,
etc.,
in certain
cases

86. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

Inspection of
documents
under
order of
committee of
Assembly

87. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto.

Report re
conduct of
election

88. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

CORRUPT PRACTICES AND OTHER OFFENCES:
PENALTIES AND ENFORCEMENT

89. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more than once; or
- (c) votes in an electoral district or polling division other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

90. Every person who,

Improper
voting by
proxy, etc.

- (a) appoints a proxy for reward or remuneration;
- (b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;
- (c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;
- (d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (e) knowingly appoints more than one person as a voting proxy; or
- (f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or had reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

91. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a

Wilful
miscount
of ballots

false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Neglect
of duties

92. Every returning officer, election clerk, revision assistant, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
relating to
ballot papers

93. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) without authority, places in a ballot box anything other than an official ballot;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

94. Every person who knowingly furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

Inducing
unqualified
person to
vote, etc.

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

96. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

General
offence

97.—(1) Where a candidate at an election is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for eight years following the date of the official return.

Disqualifi-
cation of
candidates
guilty of
corrupt
practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

Limitation

CONTESTED ELECTIONS

98.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Validity of
election,
determination
by action

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 89 to 97.

Penalties
for
corrupt
practice

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Who may
commence
action

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time.

Local
registrar
to notify
Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar
to notify
C.E.O.

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this section by anyone other than the Chief Election Officer.

C.E.O. to
notify
Assembly
and
returning
officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication
of notice
by returning
officer

(8) The returning officer, after receipt of a notification under subsection (7), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district.

Practice
and
procedure

99.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under section 98.

Judge
without jury

(2) The action shall be tried by a judge without a jury.

Intervention
in action by
C.E.O.

100.—(1) The Chief Election Officer, following receipt of the notice under subsection 98 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of
application
to be filed
and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave
granted

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action.

101.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the election officer incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

Security
for costs

(2) The security shall be in the amount of \$2,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.

Idem

102. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 98 and an action may be commenced in the same manner as if the member elected had not disclaimed.

Disclaimer
not to affect
action
R.S.O. 1980,
c. 235

103.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Abatement
of action

(2) The abatement of an action does not affect any liability for costs previously incurred.

Liability
for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff.

Substitution
of plaintiff

104. Where a plaintiff is not qualified to be a plaintiff in an action under section 98, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.

Substitution
for
unqualified
plaintiff

105.—(1) If, before or during the trial,

Death of
defendant,
etc., at
or before
trial

(a) the defendant dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

Substituted
as further
defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to
oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly.

Declaration
that election
void

106.—(1) Where it is determined that the successful candidate is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

Where result
of election
affected

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Unseating of
disqualified
person

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Where act or
omission
affects
result of
election

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$15,000 per candidate.

Compensation of candidate where election void

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly.

Judgment to Legislative Assembly

107.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where election set aside and appeal entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court.

Notice of appeal to Clerk

108. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal.

Time for issue of writ for new election

109.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Appeals to Court of Appeal

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Setting down for hearing, etc.

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or new trial

Appeal from
decision on
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

Inquiry as
to extensive
corrupt
practices

110. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

ELECTION FEES AND EXPENSES

Regulations

111. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 77 and 79.

Payment of
expenses
of Act

112.—(1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and
equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his responsibilities under this Act.

Clerical and
technical
assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable
warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and
audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the

same person, unless the Lieutenant Governor in Council otherwise directs.

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor.

Audit by
Provincial
Auditor

OFFICE OF THE CHIEF ELECTION OFFICER

113.—(1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his permanent staff as are necessary in the performance of his duties and for the efficient and proper operation of his office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his office and the Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required for these purposes.

Staff

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1), and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review of
estimates
by Board

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

114.—(1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath of office and secrecy and, if required by the Chief Election Officer, the prescribed oath of allegiance.

Oath of
office and
secrecy and
oath of
allegiance

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths referred to in subsection (1).

Idem

(3) A copy of each oath administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Record of
oaths

Cause for
dismissal

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal.

Benefits

R.S.O. 1980,
c. 418

115.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

Super-
annuation
benefits

R.S.O. 1980,
c. 419

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the office of the Chief Election Officer as though the office of the Chief Election Officer were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Chief Election Officer and Assistant Chief Election Officer as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under that Act immediately before this Act comes into force are preserved and continued in accordance with that Act.

Conduct
and
discipline

116.—(1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing

R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an

employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him, to the Public Service Grievance Board established under the *Public Service Act*.

Appeals

R.S.O. 1980,
c. 418

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant.

Board authorized to hear appeals

MISCELLANEOUS

117. Section 6 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. The persons qualified to sit and vote as members of the Assembly are any persons of the full age of eighteen years who are Canadian citizens resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification of members

118. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

119.—(1) This Act, except section 117, comes into force on the day it receives Royal Assent.

Commencement

(2) Section 117 comes into force and has effect on the day after the day the Legislature is dissolved or ended by the effluxion of time, where the day of dissolution or ending falls after the 1st day of July, 1986.

Idem

120. The short title of this Act is the *Election Act, 1984*.

Short title

Bill 17

(Chapter 54
Statutes of Ontario, 1984)

An Act to revise the Election Act



The Hon. T. L. Wells

Minister of Intergovernmental Affairs

<i>1st Reading</i>	March 29th, 1984
<i>2nd Reading</i>	December 4th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 17**1984****An Act to revise the Election Act****CONTENTS****Section**

1. Definitions
2. References to Time
3. Oaths
- 4,5. Administration
6. Employees Serving or Voting at Election
7. Returning Officers
8. Election Clerk
9. Dates for Close of Nominations and Polling
10. Writs
11. Proclamation
12. Polling Divisions
13. Polling Places
14. Hospitals, Psychiatric Facilities, Retirement Homes, Nursing Homes, etc.
15. Qualification of Electors
16. Persons Disqualified from Voting
17. Proxies
18. Enumeration
19. List of Electors
20. Complaint Against Name on List
21. Revision
22. Additions
23. Corrections
24. Transfers
25. Polling Lists
26. Candidates
- 27,28. Close of Nominations
29. Notice of Poll
30. Withdrawal of Candidate
31. Death of Candidate
32. Scrutineers
33. Ballot Paper
- 34-36. Ballots
37. Ballot Boxes
38. Voting Screens

Section

39. Poll Officials
40. Time of General Poll
41. Preservation of the Peace
42. Secrecy of Proceedings
43. Voting at One Place Only
- 44,45. Advance Polls
- 46,47. Procedure at Poll
48. Marking a Ballot
49. Certificate of Error
50. Voting Certificates
51. Vouching
52. Ballot Taken from Poll
53. Declined Ballot
54. Cancelled Ballot
55. Disabled Electors
56. Interpreter at the Poll
- 57,58. Counting the Ballots
59. Statement of the Poll
60. Certificate of Count
- 61,62. Final Poll Procedure
63. Receipt of Poll Return Envelope by Returning Officer
- 64-66. Official Tabulation
67. Effect of Irregularities
- 68-78. Recount
79. Appeal from Decision on Recount
- 80-82. Election Return
- 83-88. Disposition of Election Documents and Material
- 89-97. Corrupt Practices and Other Offences
- 98-110. Contested Elections
- 111,112. Election Fees and Expenses
- 113-116. Office of the Chief Election Officer
117. Miscellaneous
118. Repeal
119. Commencement
120. Short title

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

INTERPRETATION

Interpretation

1.—(1) In this Act,

- (a) “advance poll” means a poll held under section 44;
- (b) “ballot” means a ballot used for the conduct of an election;
- (c) “Board” means the Board of Internal Economy referred to in section 84 of the *Legislative Assembly Act*;
- (d) “candidate at an election” and “candidate” mean a person elected to serve in the Assembly and a person who is nominated as a candidate at an election or is declared by himself or by others to be a candidate on or after the date of the issue of the writ or after the dissolution or vacancy in consequence of which the writ has been issued;
- (e) “corrupt practice” means any act or omission, in connection with an election, in respect of which an offence is provided under the *Criminal Code* (Canada) or which is a corrupt practice under this Act;
- (f) “election” means an election of a member or members to serve in the Assembly;
- (g) “elector” means a person who is entitled under this Act to vote at an election to the Assembly;
- (h) “electoral district” means an electoral district as set out in the *Representation Act*;
- (i) “general election” means an election in respect of which election writs are issued for all electoral districts;
- (j) “polling division” means a polling division established by the returning officer in accordance with this Act;
- (k) “polling list” means the list of electors furnished to a deputy returning officer by the returning officer in accordance with this Act;

R.S.O. 1980,
c. 235

R.S.C. 1970,
c. C-34

R.S.O. 1980,
c. 450

- (l) “prescribed” means prescribed by the Lieutenant Governor in Council or by the Chief Election Officer;
- (m) “registered candidate” means a candidate registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*; R.S.O. 1980,
c. 134
- (n) “registered party” means a political party registered with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*;
- (o) “residence”, and similar expressions used in relation to a person, means his true, fixed, permanent home or lodging place to which, whenever he is absent, he has the intention of returning, subject to the following rules:
1. The place where a person’s family resides shall be deemed to be his residence unless he takes up or continues his residence at some other place with the intention of remaining there, in which case he shall be deemed to be a resident of such other place.
 2. The place where a single person occupies a room or part of a room as a regular lodger or to which he habitually returns, not having any other permanent lodging place, shall be deemed to be his residence.
 3. No person shall be deemed to be ordinarily resident in quarters or premises that are generally occupied during some or all of the months of May to October only and generally remain unoccupied during some or all of the months of November to April unless,
 - i. he is occupying such quarters in the course of and in the pursuit of his ordinary gainful occupation, or
 - ii. he has no quarters in any other electoral district to which he might at will remove;
- (p) “voter” means an elector who has appeared at a polling place and has accepted a ballot for marking which has been placed in the ballot box or has declined his ballot and so declared.

Idem

(2) In this Act, words importing the masculine gender only include females as well as males, and the converse.

TIME

References
to time

2. Any expression of or reference to time in this Act refers to the time that is in effect locally, that is, either standard time or daylight saving time, as the case may be.

OATHS

Oaths and
statutory
declarations,
who may
take

3.—(1) Except where otherwise provided, an oath or statutory declaration for the purposes of this Act may be taken by a returning officer, election clerk, revision assistant, justice of the peace, a commissioner for taking affidavits or a notary public and for election purposes, deputy returning officers and poll clerks are empowered to take such oaths or declarations at the poll.

No charge
for taking
oath or
declaration

(2) Every person taking an oath or statutory declaration under or for the purposes of this Act shall do so gratuitously.

ADMINISTRATION

Appointment
of C.E.O.
and
A.C.E.O.

4.—(1) The Lieutenant Governor in Council, on the address of the Assembly, shall appoint, as an officer of the Assembly, a Chief Election Officer, who shall be responsible for the administration of this Act and the Lieutenant Governor in Council may appoint, as an officer of the Assembly, an Assistant Chief Election Officer.

Remuneration
of C.E.O.

(2) The Chief Election Officer shall be paid such salary as may be determined by the Lieutenant Governor in Council.

Salary of
C.E.O. paid
out of
Consolidated
Revenue
Fund

(3) The salary of the Chief Election Officer shall be charged to and paid out of the Consolidated Revenue Fund.

Powers and
duties of
C.E.O.

(4) The Chief Election Officer shall consult with, advise and supervise the returning officers and election clerks in the performance of their duties, and may visit in person and consult with the deputy returning officer and poll clerk at any polling location.

Powers and
duties of
A.C.E.O.

(5) In the absence or illness of the Chief Election Officer or if the office is vacant, the Assistant Chief Election Officer shall act in his place and, while so acting, possesses the same powers and shall perform the same duties as the Chief Election Officer.

(6) If at any time subsequent to the issue of the writs for an election the office of Assistant Chief Election Officer is vacant and if the Chief Election Officer is absent or through illness is unable to perform the duties of his office or if the office is vacant, the Lieutenant Governor in Council may appoint some person as Acting Chief Election Officer to hold office during such period of time as is specified in the appointment and the Acting Chief Election Officer shall act in the place of the Chief Election Officer and while so acting possesses the same powers and shall perform the same duties as the Chief Election Officer.

Appointment
of Acting
C.E.O.

(7) Where in the opinion of the Chief Election Officer, by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstance, a situation exists for which no provision is made under this Act, he may make such appointments or give such directions as he considers proper and anything done in compliance with any such direction is not open to question, but the Chief Election Officer shall immediately give notice of any such direction to the candidates affected.

In cases of
emergency,
etc.

(8) The Chief Election Officer may delegate in writing to any officer on his staff authority to exercise any power and perform any duty, other than those mentioned in subsection (7), assigned to him by this Act.

Delegation

(9) The Chief Election Officer shall prescribe the forms for use under this Act.

Forms

(10) The prescribing of forms under subsection (9) or the exercise of any power or the performance of any duty by the Chief Election Officer that he is authorized or required to exercise or perform under this Act shall be deemed to be an act or acts of an administrative nature.

Adminis-
trative
in nature

5.—(1) The following persons shall not be appointed or act as a returning officer, election clerk, deputy returning officer or poll clerk:

Persons
excluded
from being
returning
officers,
etc.

1. Judges of federal or provincial courts.
2. Crown Attorneys and Clerks of the Peace.
3. Members of the Executive Council.
4. Members of the Parliament of Canada or of the Assembly.
5. Persons who have served as members of the Assembly in the session next preceding the election.

6. Persons who have at any time been found guilty of a corrupt practice.

Validity of
election
not affected

- (2) A contravention of this section does not affect the validity of the election.

EMPLOYEES SERVING OR VOTING AT AN ELECTION

Leave to be
granted to
employee
to serve

- 6.—(1) Every employer shall, on request made not later than seven days before the time required, grant leave to an employee who has been appointed by a returning officer to serve as a poll official to enable him to perform his duties and the employer may not dismiss an employee who has been so appointed.

Remuneration

- (2) The employer is not required to remunerate his employee for any leave granted under subsection (1), but such leave shall not be subtracted from any vacation entitlement.

Employees to
have three
consecutive
hours for
voting

- (3) Every employee who is qualified to vote shall, while the polls are open on polling day at an election, have three consecutive hours for the purpose of voting and, if the hours of his employment do not allow for three consecutive hours, he may request that his employer allow him such additional time for voting as may be necessary to provide those three consecutive hours and the employer shall grant the request.

Deduction
from pay
prohibited

- (4) No employer shall make any deduction from the pay of any employee or impose upon or exact from him any penalty by reason of his absence from his work during the consecutive hours that the employer is required to allow him under subsection (3).

Time off
best suiting
convenience
of employer

- (5) Any time off for voting as provided in subsection (3) shall be granted at the time of day that best suits the convenience of the employer.

RETURNING OFFICERS

Appointment
of R.O.

- 7.—(1) The Lieutenant Governor in Council shall appoint a returning officer for each electoral district.

Qualifications
of R.O.

- (2) A returning officer must be of voting age, a Canadian citizen and resident in Ontario.

Refusal or
incapacity
to act

- (3) If the person appointed as returning officer under subsection (1) dies, refuses to act, is incapacitated or resigns in accordance with subsection (9) or is discharged under subsection (10) or (11), some other person may be appointed by the Lieutenant Governor in Council as returning officer.

(4) The Chief Election Officer shall notify every person appointed as returning officer of his appointment, and thereupon such person shall enter upon his duties under this Act.

Notification of appointment

(5) Every returning officer immediately upon receiving notice of his appointment shall take the prescribed oath, faithfully to perform his duties without partiality, fear, favour or affection.

Oath of R.O.

(6) Subject to the direction of the Chief Election Officer, every returning officer shall provide for such clerical and other assistance as is necessary in the performance of his duties.

Clerical and other assistance

(7) A returning officer shall consult with, advise and supervise the deputy returning officers and poll clerks in the performance of their duties and he or his election clerk or his delegate may visit and consult with the deputy returning officer and poll clerk at any polling location in the electoral district.

Powers and duties of R.O.

(8) A returning officer shall comply with any oral or written instruction received from the Chief Election Officer.

Instructions from C.E.O.

(9) A returning officer who is appointed under this Act shall continue in office as returning officer for the electoral district until he dies, or, with prior permission of the Chief Election Officer, he resigns, or unless he is removed from office under subsection (10) or (11).

Term of office

(10) The Lieutenant Governor in Council may remove from office any returning officer who,

Removal from office

(a) has attained the age of sixty-five years; or

(b) is incapable, by reason of illness, physical or mental infirmity or otherwise, of satisfactorily performing his duties under this Act.

(11) The Chief Election Officer may, at any time during an election period, remove from office any returning officer who, in the opinion of the Chief Election Officer, fails to discharge competently his duties, or any of them, under this Act.

Idem

(12) No person shall obstruct or interfere with the returning officer or his staff or contrive any hindrance to the exercise of their rights or the performance of their duties under this Act.

Obstruction

ELECTION CLERK

8.—(1) Forthwith upon his appointment, the returning officer may appoint in writing a person who is of voting age, a

Election clerk

Canadian citizen and resident in Ontario to be his election clerk but if upon receipt of a writ of election no person has been appointed, the returning officer shall immediately make the appointment.

Relatives

(2) No person who is a child, grandchild, brother, sister, parent, grandparent or the spouse of the returning officer shall be appointed as election clerk without the prior approval of the Chief Election Officer.

Appointment
of new
election
clerk

(3) The returning officer at any time and for any reason may appoint in writing a new election clerk in the place of the person previously appointed.

Duties

(4) The election clerk shall assist the returning officer in the performance of his duties, and, if the returning officer dies or is disqualified or refuses or is unable to perform his duties during an election and has not been replaced, shall act in his stead as the returning officer.

Oath
of election
clerk

(5) The election clerk before entering upon his duties shall take the prescribed oath.

DATES FOR CLOSE OF NOMINATIONS AND POLLING

Close of
nominations
and election
day

9. When an election is to be held, the Lieutenant Governor in Council may appoint and proclaim a day,

- (a) for the close of nominations and the grant of a poll where required, which day shall be a Thursday, that is not more than sixty and not less than twenty-three days after the date of the writs of election; and
- (b) for the taking of a poll, which day shall be the Thursday, that is the fourteenth day after the grant of a poll, unless that Thursday is a holiday, as defined by the *Interpretation Act*, or is declared to be a holiday by law and in that case the day fixed for the poll shall be Friday of the same week.

R.S.O. 1980,
c. 219

WRITS

Writs to
bear same
date

10.—(1) The writs for a general election shall all be dated on the same day and shall be addressed to the returning officers.

Writs to state
nomination
and
polling days

(2) A writ of election shall state the respective days for the close of nominations and for the polling, if required, and is returnable forthwith after the election.

(3) Every returning officer on receiving a writ for an election shall endorse thereon the date of its receipt.

Endorsement
on writ

(4) If a writ for an election has been issued to a person in whose stead a new returning officer has been appointed under subsection 4 (7) or under subsection 7 (3), a new writ may be issued or the new returning officer or the election clerk, if applicable, may act under the writ already issued and the validity of the proceedings prior to the new person acting may not be questioned but the new or acting returning officer may appoint a new election clerk.

Where
appointment
superseded

PROCLAMATION

11.—(1) Forthwith after receipt of the writ of election, the returning officer shall by proclamation, declare,

Proclamation
by returning
officer

- (a) the dates, place and times during which the list of electors may be revised;
- (b) the date, place and time fixed for the close of nominations of candidates and for the granting of a poll, if required; and
- (c) the days and hours fixed for holding the advance polls and the general poll.

(2) The returning officer shall cause the proclamation to be printed and copies to be posted in conspicuous places on public or private property in the electoral district and the Chief Election Officer or the returning officer may arrange for the proclamation to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Posting, etc.,
of
proclamation

POLLING DIVISIONS

12.—(1) The returning officer shall divide his electoral district into urban and rural polling divisions as directed by the Chief Election Officer and shall, on an annual basis or as directed by the Chief Election Officer, review his electoral district as to population distribution and shall, in collaboration with the clerk of each municipality contained within the electoral district, consider any changes to polling division boundaries.

Polling
divisions

(2) Following any revision of boundaries as may be authorized by the Chief Election Officer, the returning officer shall prepare and submit to the Chief Election Officer one complete set of typed descriptions of the polling divisions established under subsection (1) together with a map or maps of

Description
of polling
divisions

the electoral district boldly marked with the polling division boundaries and the number assigned to each polling division.

POLLING PLACES

Polling
places

13.—(1) Subject to subsection (5) and to section 14, the returning officer shall arrange for at least one polling place for each polling division in the most central or most convenient place for the electors, furnished with light and heat and such other accommodation and furniture as may be required, and if the Chief Election Officer approves, the polling place may be provided outside the limits of the polling division, such as in the case of multiple polling places established at one location.

Union of
polling
divisions

(2) The returning officer may unite two or more adjoining polling divisions and provide one polling place for the united divisions.

Location
of polling
places

(3) The poll may be situated in any public building or on private property and shall so far as is reasonably possible give access to wheelchairs.

When land-
lord, munici-
pality, school
board, etc.,
to furnish
facilities

(4) Where, in the opinion of the returning officer, it is necessary to ensure to the maximum number of electors access to conveniently located polling places,

- (a) a landlord of a building containing 100 or more dwelling units;
- (b) a municipality;
- (c) a school board; or
- (d) a provincially funded institution,

shall, on the request of the returning officer made not less than fourteen days prior to polling day, make any premises under his or its control available as a polling location.

Where
polling places
not to be
R.S.O. 1980,
c. 244

(5) The poll shall not be held in a premises licensed under the *Liquor Licence Act* or in a place of public entertainment, except as authorized by the Chief Election Officer.

Additional
polling
places

(6) The returning officer may provide such additional polling places in any polling division as are required having regard to the extent of the division, and the number of electors that may conveniently vote at one polling place and the returning officer shall determine how each such polling place shall be designated and an elector is entitled to vote only at the appropriate polling place.

(7) The returning officer shall prepare a list of the polling places within his electoral district showing the location of each by polling division number.

List of
polling
places

(8) Every elector shall have free access to the poll.

Access to
poll

HOSPITALS, RETIREMENT HOMES, NURSING HOMES AND
OTHER INSTITUTIONS

14.—(1) Where an institution for the reception, treatment or vocational training of persons who have served or are serving in the Canadian Forces or who are disabled, a hospital, a psychiatric facility, a home for the aged, a nursing home or other institution of twenty beds or more, in which chronically ill or infirm persons reside or where a retirement home of fifty beds or more is situate in an electoral district, a polling place shall be provided in such institution or upon the premises.

Polling places
in hospitals,
etc.

(2) Electors resident at an institution referred to in subsection (1) and who are entered in the list of electors may vote at such polling place and the returning officer shall arrange for the deputy returning officer and the poll clerk to attend upon the electors at their bedsides or otherwise for the purpose of receiving their ballots.

Voting

(3) On the completion of their canvass of the residents, the poll officials may continue the poll in one location until full opportunity has been given for all resident electors to vote.

Continuation
of poll

(4) Each candidate and one of his scrutineers may be present at such a polling place except when a ballot is marked under section 55.

Presence of
candidate
and
scrutineer

QUALIFICATION OF ELECTORS

15.—(1) In an electoral district in which an election to the Assembly is to be held, every person is entitled to vote who, on the general polling day,

Electors

- (a) has attained eighteen years of age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next preceding polling day;
- (d) resides in the electoral district; and
- (e) is not disqualified under this Act or otherwise prohibited by law from voting.

Re-enactment
of (1) (b, c)

(2) Clauses (1) (b) and (c) are repealed and the following substituted therefor:

(b) is a Canadian citizen;

(c) has resided in Ontario for the six months next preceding polling day.

Effective
date of
re-enactment

(3) Subsection (2) does not come into force until the 1st day of July, 1986.

Evidence of
person
claiming
to be elector

(4) For the purposes of this section, a statutory declaration by a person claiming to be entitled to vote is *prima facie* proof of the facts declared to.

Requirement
to receive
ballot
and vote

(5) In order to receive a ballot and vote, an elector's name must appear in the list of electors or on a certificate to vote or have been lawfully added under the provisions of section 51.

PERSONS DISQUALIFIED FROM VOTING

Disquali-
fication

16. Every person who is an inmate in a penal or correctional institution under sentence of imprisonment is disqualified from voting.

PROXIES

Appointment
of proxy

17.—(1) Where an elector has reason to believe that he or she will be unable to vote at the advance poll or on polling day by reason of,

R.S.C. 1970,
c. N-4

(a) being a member or the spouse or child of a member of the Canadian Forces as defined by the *National Defence Act*; or

(b) being employed in the business of long distance transportation by railway, air, water or motor vehicle; or

(c) business commitments or employer's directions; or

(d) being a person who for medical reasons is physically incapable of attending a polling place; or

(e) being a student duly registered at a recognized education institution; or

(f) being a person participating in a job training or retraining program; or

- (g) being an inmate in a penal or correctional institution, not under sentence of imprisonment,

the elector may apply in writing to vote by proxy and appoint some other elector in the electoral district to vote for him or her at the election.

(2) No appointment of a proxy is valid unless it is made after the date of the issue of the writ of election and no such proxy remains in force after polling day. Term of appointment

(3) An elector may not act as proxy for more than two electors. Limitation

(4) On any day up to and including the day immediately preceding polling day, Certificate

- (a) a person appointed as a proxy voter under clause (1) (a), (b), (d), (e), (f) or (g); and

- (b) a person appointing a proxy under clause (1) (c) and the person appointed,

shall present the application to vote by proxy and the appointment in the prescribed form to the returning officer or a revision assistant of the electoral district.

(5) The returning officer or revision assistant shall examine the appointment and, on being satisfied as to the reason for a proxy being appointed and the eligibility and qualifications of the persons appointing the proxy and the person so appointed, shall require the latter to make a declaration in the prescribed form before issuing a certificate to vote. Idem

(6) A person appointed as a proxy voter must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote. Certificate to be presented

(7) An elector who has been appointed as a voting proxy is entitled to vote in his own right in his own polling division and, if within the same electoral district, may apply to the returning officer to have his name transferred to the polling list of the place where the proxy vote is to be cast or to have the name of the person appointing the proxy transferred to the polling list of his polling place. Proxy may vote in own right

(8) An elector who has appointed a voting proxy may cancel such appointment by returning the proxy certificate to the Cancellation of appointment

returning officer for cancellation or by notifying the returning officer and the voting proxy in writing of such cancellation.

Not more
than
one proxy

(9) Not more than one person shall be appointed a voting proxy on behalf of a person appointing the proxy at any election.

ENUMERATION

Enumeration

18.—(1) Immediately following the issue of the writ for an election, the Chief Election Officer shall designate the period during which an enumeration of electors shall take place and shall advise the returning officer of the date on which the enumeration shall begin.

Nomination
of
enumerators

(2) After the issue of the writ and up to seventy-two hours before the enumeration is to begin,

- (a) the person who apparently will be the candidate at the election of the registered party represented by the government of the day; and
- (b) the person who apparently will be the candidate at the election of a different political interest, the candidate for which, at the next preceding provincial election, received the highest number of votes or the next highest number of votes, as the case may be,

shall furnish the returning officer with lists of nominations for appointment as enumerators.

Selection
of
enumerators

(3) The returning officer shall select and appoint two persons of voting age as enumerators for each polling division, and with the approval of the Chief Election Officer may select persons at least sixteen years of age, and shall make such appointments as are necessary so that the enumerators for each polling division represent as far as possible two different political interests.

Idem

(4) If, seventy-two hours before the enumeration is to begin, sufficient names from which to select and make the appointment of the enumerators have not been received, the returning officer shall make such appointments as are necessary to enumerate the electoral district.

Candidates

(5) No person who apparently will be a candidate at the election shall be an enumerator.

(6) Forthwith upon their appointment and before commencing their duties, the enumerators shall take the prescribed oath and the returning officer shall supply each pair of enumerators with sufficient materials for the proper conduct of the enumeration.

Enumerators;
oath,
supplies

(7) The two enumerators shall act jointly and not individually in relation to each process in the preparation of the list of electors and in case of any disagreement they shall report the matter to the returning officer whose decision shall be final.

Enumerators
to act
jointly

(8) The enumerators shall conduct their enumeration between the hours of 9 a.m. and 9 p.m. and, unless they have obtained the information required or unless an occupant of any dwelling unit has stated that no other elector remains to be enumerated, they must make a second visit between the hours of 5 p.m. and 7 p.m. and, if necessary, a third visit may be made between the hours of 7 p.m. and 9 p.m.

Hours of
enumeration

(9) Each name and address obtained by the enumerators during their door-to-door canvass or as directed by the returning officer shall be entered on a record which shall be signed by both enumerators and a copy thereof left at each dwelling unit.

Enumerator's
record

(10) Where, after making the required number of visits as set out in subsection (8), the enumerators are unable to obtain the information necessary, they shall leave at such dwelling unit the prescribed notice of their inability to obtain information.

Notice of
inability
to obtain
information

(11) The enumerators shall at all reasonable times and upon producing proper identification have free access for the purposes of enumeration to the entrance door of each dwelling unit in any building having more than one dwelling unit.

Enumerators
to have
free access

(12) No person shall obstruct or interfere with the enumerators or contrive any hindrance in the exercise of their rights or in the performance of their duties under this Act.

Obstruction,
etc., of
enumerators

(13) The returning officer may at any time replace any enumerator by appointing another to act in his place and, upon receiving such notice in writing from the returning officer, the enumerator so replaced shall forthwith deliver to the returning officer all credentials, papers and materials which have been supplied.

Replacement
of
enumerator

(14) An enumerator who neglects, omits or refuses to perform any of his duties under this Act or who refuses to com-

Forfeiture
of right
to payment

ply with any direction in writing from the returning officer may forfeit his right to payment for any service or part thereof already rendered.

LIST OF ELECTORS

Preparation
of list of
electors

19.—(1) The enumerators, immediately after the completion of the canvass of their polling division, from their records shall prepare a list of electors legibly typewritten in the prescribed form,

- (a) under headings of thoroughfares by name and in numerical order of residence where such names and numbers are in effect;
- (b) under geographic area or municipal headings in alphabetical order by surname; or
- (c) as directed by the returning officer.

Delivery of
list to R.O.

(2) Not later than four days from the date of their appointment, the enumerators shall,

- (a) certify the total number of names contained in the list; and
- (b) unless otherwise directed by the returning officer, deliver the list to the returning officer together with all used and unused material.

Disposition
of list

(3) On receipt of and having accepted the list of electors from each pair of enumerators, the returning officer shall arrange for,

- (a) one copy of the list to be posted by the enumerators in urban areas in a conspicuous place in their polling division;
- (b) one copy of the list to be retained in the returning office;
- (c) one copy to be furnished as soon as possible to each candidate in the electoral district;
- (d) up to twelve copies of the list to be furnished to each constituency association or candidate in the electoral district; and
- (e) a notice of enumeration, including the poll location, to be mailed to each elector.

(4) Following preparation of the list of electors by the enumerators and up to and including the fourteenth day before polling day, any person who has knowledge of the fact that the name of an elector resident in an urban polling division has been omitted from the list, may so notify the returning officer.

Notification
of omitted
electors

(5) The returning officer may appoint pairs of special enumerators for the purposes of subsection (6) from among those who have already acted as such for the pending election or may appoint others in the manner provided by section 18.

Special
enumerators

(6) The returning officer, before the preparation of the polling lists, shall cause special enumerators to call once at the address of any elector referred to in subsection (4) and to enumerate such elector and any other electors at that address whose names were also omitted.

Enumeration

(7) On completion of the enumeration, the returning officer shall cause any names obtained under subsection (6) to be added directly to the list of electors compiled during the original enumeration or shall direct the special enumerators to prepare an additional list of electors by polling division number, in the prescribed form.

Addition to
list of
electors

(8) The returning officer shall supply to each candidate, on request, a copy of each list referred to in subsection (7).

Copies

COMPLAINT AGAINST NAME ON LIST

20.—(1) On any day up to and including the fourteenth day before polling day an elector may file with the returning officer a complaint, on the prescribed form, that the name of a person who should not be included, has been included in the list of electors.

Complaint
for wrongful
entry on list

(2) The returning officer, upon receipt of the complaint, shall send by registered mail to the person objected to at the address shown in the list and to such other address, if any, as may be mentioned in the complaint, a copy of the complaint along with a notice requiring such person or his representative to appear before the returning officer on a day to be named in the notice and a copy of the notice shall be given to the complainant.

Notice to
person
objected to

(3) On the day named in the notice and in the presence of any of the persons concerned with the complaint, the returning officer may hear an explanation by the person who filed the complaint as to the facts alleged and what is alleged by the

Hearing of
complaint

person or by the representative of the person against whom the complaint was made.

Decision

(4) The returning officer shall make such decision concerning the complaint as is warranted under the circumstances and that decision shall be final.

REVISION

Application
for additions,
corrections,
etc., to list

21.—(1) Up to and including the day immediately preceding polling day, the returning officer shall consider all applications concerning the list of electors or the polling list with regard to the application for a proxy certificate, addition of a name, the correction of an error or the deletion of a name and his decision is final.

Revision
assistants

(2) The returning officer may appoint his election clerk to assist him and, subject to the approval of the Chief Election Officer, may appoint additional revision assistants to act in the returning office or at other fixed locations and every such assistant shall have the same qualifications as the returning officer and the same powers at the revision as the returning officer.

Revising
agents

(3) The returning officer may, subject to the approval of the Chief Election Officer, appoint two persons as revising agents for the purpose of enumerating qualified electors of a particular area, section or building containing multiple dwelling units within the electoral district who were missed by the enumerators.

Oath

(4) Every such assistant or agent appointed under subsection (2) or (3) upon being appointed shall take the prescribed oath.

Grounds
must be
sufficient

(5) Before making any addition, correction or deletion in the list of electors, the returning officer shall be satisfied that the applicant has provided sufficient grounds for the action requested and that the person appearing before him understands the effect of any statements made in the application.

Procedure
where
application
refused

(6) If it appears to the returning officer that an application under subsection (1) should be refused, the decision shall be endorsed on the application along with his reasons and the applicant informed.

Irregularity
not to affect
result of
election

(7) An irregularity in the preparation or revision of the list of electors is not a ground for questioning the validity of an election.

(8) Where the returning officer or his revision assistant does not understand the language spoken by an applicant or where the applicant is deaf, the applicant has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the applicant and the answers, but in the event of inability to secure an interpreter, the application may for the time being, be refused.

Interpreter where necessary

(9) The returning officer shall, on request made to him, provide to each candidate of a registered party a list of persons to whom a certificate to vote has been issued up to the time the request is made.

List of persons issued certificate

(10) A person added to the polling list under section 22 or 24 must present a certificate to vote, signed by the returning officer or revision assistant, to the deputy returning officer at the polling place in order to receive a ballot and to vote.

Certificate to be presented

(11) A person whose name appears in a list of electors and who wishes to have the entry related to him deleted, must appear before the returning officer and complete a declaration to that effect.

Deletion of name from list

ADDITIONS

22.—(1) Up to and including the day immediately preceding polling day, for the purpose of obtaining a certificate to vote, an elector whose name does not appear in the list of electors may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf and by statutory declaration substantiate his identity and qualifications as an elector.

Application for certificate to vote

(2) An elector acting on behalf of another under subsection (1) may do so for his child, grandchild, brother, sister, parent, grandparent or spouse but may act for only one additional person and a person who is not an elector may act for only one elector.

For whom elector may act

CORRECTIONS

23.—(1) The returning officer or his assistant, as set out in section 21, shall consider all applications for correction of mistakes in names or addresses in the list of electors and upon satisfactory evidence being furnished to him may make the necessary corrections.

Corrections to list

(2) A mistake in the name or the address of an elector shown in the polling list is not a ground for questioning the

Mistake in name, etc.

eligibility to vote of the elector, provided that at the time of voting the elector takes the prescribed oath, if required to do so by the deputy returning officer.

TRANSFERS

Change of
residence

24.—(1) Up to and including the day immediately preceding polling day, an elector whose name appears on a polling list for the pending election and who has moved may apply in person to the returning officer or his assistant as set out in section 21 or have some other person apply on his behalf to have his name included in the polling list for the polling division where he now resides.

Proxy voters,
election
officials

(2) Where an elector whose name appears on a polling list for the polling division where he resides and,

(a) has appointed a proxy voter whose name appears on a different list in the same electoral district; or

(b) has been appointed,

(i) to cast a proxy vote at a polling place other than his own but in the same electoral district, or

(ii) to act as a deputy returning officer, poll clerk or scrutineer at a polling place other than his own but in the same electoral district,

an application may be made to the revising official for a certificate to vote at the other polling place.

Notice of
transfers

(3) The revising official whenever possible, shall advise the returning officer of the original electoral district, if applicable, or the deputy returning officer of the original polling place of any transfer made.

POLLING LISTS

Official
polling
list

25.—(1) The returning officer shall prepare the official polling list for each polling division by attaching to a copy of the original list of electors, a copy of any additional lists of electors prepared under his direction.

Copy to
D.R.O.'s

(2) The returning officer shall certify and supply a copy of the official polling list to each deputy returning officer for use at the advance polls and on regular polling day.

CANDIDATES

26.—(1) Every person is qualified to be a candidate who,
at the time of signing the consent to nomination,

Who may be
candidate

- (a) is of voting age;
- (b) is a Canadian citizen or other British subject;
- (c) has resided in Ontario for the twelve months next
preceding polling day; and
- (d) is not disqualified by the *Legislative Assembly Act*
or by any other Act.

R.S.O. 1980,
c. 235

(2) Clauses (1) (b) and (c) are repealed and the following
substituted therefor:

Re-enactment
of (1) (b,c)

- (b) is a Canadian citizen;
- (c) has resided in Ontario for the six months next pre-
ceding polling day.

(3) Subsection (2) does not come into force until the 1st
day of July, 1986.

Effective
date of
re-enactment

(4) No person who has been engaged as a returning officer,
election clerk, enumerator or revision assistant at the revision
of any list of electors to be used at the election, is eligible as a
candidate.

Who may
not
be candidate

(5) No person who has been found guilty within eight years
of an election of a corrupt practice or of an offence relating to
an election is eligible to be a candidate at the election.

Idem

(6) A candidate may undertake any of the duties that his
scrutineer might have undertaken if appointed, or may assist
his scrutineer in the performance of such duties, and may be
present at any place at which his scrutineer may attend in pur-
suance of this Act.

Right of
candidate
to undertake
duties of
scrutineer

CLOSE OF NOMINATIONS

27.—(1) The close of nominations of candidates shall be 2
p.m. of the day stated as such in the writ of election.

Time for
close of
nominations

(2) One hour before the close of nominations, the returning
officer shall make or cause to be made a pronouncement in
the prescribed form and shall read or cause to be read publicly
the writ of election.

Procedure on
nomination
day

Separate
nomination
papers, etc.

(3) A candidate may be nominated in one electoral district only and each candidate shall be nominated by a separate nomination paper which shall include or be accompanied by his consent in writing to the nomination.

Contents of
nomination
papers

(4) The nomination paper of a candidate shall state his name and address of residence and shall be signed by, or accompanied by the signatures of at least twenty-five electors of the electoral district and an elector may sign the nomination papers of more than one candidate.

Deposit

(5) A deposit of \$200 in cash or by cheque made payable to the Chief Election Officer shall be handed to the returning officer at the time the nomination paper is filed.

Refund

(6) Where a candidate receives at least 10 per cent of the valid ballots cast at the election, the deposit under subsection (5) shall, in the case of a cash deposit, be refunded to the candidate and, in the case of a cheque, be refunded to the issuer of the cheque.

How name
to be shown
on ballot

(7) Subject to subsection (8) and to subsections 34 (2) and (5), at the time of filing his nomination papers, a candidate shall state in writing to the returning officer how he wishes his name to be shown on the ballot.

Similarity
of names

(8) Where the given names and surname requested to be shown on the ballot are identical or so nearly identical so as to create the possibility of confusion with the names requested to be shown on the ballot by another candidate whose nomination paper has already been submitted or certified, the returning officer shall immediately communicate the facts to the candidates and to the Chief Election Officer who shall consult with the candidates in question and resolve how each name is to be shown on the ballot, and the Chief Election Officer shall before 2 p.m. on the day following the day set for the close of nominations advise the returning officer how the names are to be shown on the ballot.

Registration
under
R.S.O. 1980,
c. 134

(9) The nomination paper shall include or be accompanied by either a statement by the candidate that he has filed, or an undertaking by the candidate that, prior to polling day, he will file an application for registration with the Commission on Election Contributions and Expenses under the *Election Finances Reform Act*.

When
nomination
papers to
be filed

(10) The nomination paper shall be filed with the returning officer at his office at any time during the seven days immediately preceding closing day or at any time up to the close of nominations on that day.

(11) Where the nomination paper is filed with the returning officer during the seven days immediately preceding, or not later than 11 a.m. of the closing day, the returning officer shall then and there examine the paper and, if he is satisfied of the regularity thereof, he shall so certify in writing, and his certificate is final, and the validity of the nomination is not open to question upon any ground whatsoever.

Certificate
of R.O. as
to
regularity

(12) Where the nomination paper is filed with the returning officer after 11 a.m. of the closing day and before the time fixed for the close of nominations,

Nomination
paper

(a) the returning officer shall accept and examine the nomination papers; and

acceptance

(b) if on examination of the nomination paper it appears to the returning officer that the nomination is invalid for any reason, he shall communicate the facts to the candidate and to the Chief Election Officer but shall not reject the nomination unless the Chief Election Officer authorizes the rejection not later than 2 p.m. on the day following, in which case the returning officer shall give notice of the rejection immediately by registered mail to the rejected candidate and all other candidates.

rejection

(13) It is not necessary for a candidate to be present when his nomination paper is filed with the returning officer.

Candidate
need not
be present

(14) The returning officer shall issue a receipt for any nomination paper accepted by him under subsections (11) and (12).

Receipt

28. If, at the close of nominations, only one candidate has filed a nomination paper, the returning officer shall close the election and declare such candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80.

Election by
acclamation

NOTICE OF POLL

29.—(1) If more than one candidate is nominated, the returning officer shall grant a poll for taking the votes.

Grant of
poll

(2) The returning officer shall cause the prescribed notice of poll to be printed and the notice shall be posted in conspicuous public places in the electoral district and at least one copy shall be posted at each polling place on the days of the advance poll and the general poll.

Notice of
grant of
polls

WITHDRAWAL OF CANDIDATE

Withdrawal
of candidate
after
nomination

30.—(1) A candidate may withdraw at any time between filing his nomination paper and polling day by delivering to the returning officer the prescribed notice of withdrawal signed by himself in the presence of a subscribing witness.

Idem

(2) In the case of a candidate withdrawing after the close of nominations his deposit is forfeited and,

- (a) if there remains but one candidate, the returning officer shall close the election and declare the remaining candidate to be duly elected and shall make his return to the Chief Election Officer as provided by section 80; or
- (b) if there remains two or more candidates and only if the ballots have been printed, the returning officer, if possible, shall cause every deputy returning officer to be notified forthwith of the withdrawal, and notice of the withdrawal shall be posted in a conspicuous place in every polling place in the electoral district, and any ballots cast for such candidate who has so withdrawn are void and shall be considered as rejected ballots.

DEATH OF CANDIDATE

Death of
candidate

31.—(1) If a candidate dies after being nominated and before the close of the poll, the returning officer shall suspend the election and the Chief Election Officer shall fix new days for the nomination of candidates and for polling in that electoral district but any certified nominations may, at the option of the candidate nominated, remain valid.

Return of
deposit on
death of
candidate

(2) The deposit of a candidate who dies before the close of the poll shall be returned to the personal representative of the candidate.

SCRUTINEERS

Appointment
of scrutineer

32.—(1) A candidate or a person designated in writing by him, which designation is filed with the returning officer, may appoint any person at least sixteen years of age to be a scrutineer for the candidate and to be present at any place at which a scrutineer may attend under this Act.

When
scrutineer
may not
challenge

(2) A scrutineer who is not an elector may not challenge the right to vote of any elector at a polling place.

(3) Not more than one scrutineer for each candidate at any one time shall be permitted to remain in the polling place during the time the poll is open, and at the counting of the votes.

Number of scrutineers in polling place

(4) Where expressions are used in this Act that require or authorize any act to be done in the presence of the scrutineers of the candidates, the non-attendance of any scrutineer does not invalidate the act.

Non-attendance of scrutineers

BALLOT PAPER

33.—(1) The paper used for printing the ballots shall be as approved and ordered by the Chief Election Officer and shall be manufactured to contain a special thread or watermark so placed as to run through each ballot.

Ballot paper

(2) The manufacturer of the paper shall make a declaration that none of the paper so manufactured will be supplied to any person other than the Chief Election Officer and upon delivery of the paper the Chief Election Officer shall cause the number of sheets received to be counted and a receipt issued to the manufacturer.

Declaration by manufacturer

(3) The ballot paper shall be kept under lock and key in the custody of the Chief Election Officer.

Custody of ballot paper

BALLOTS

34.—(1) All ballots shall be of the same description and as nearly alike as possible.

Uniformity

(2) The names of the candidates shall be shown in capital letters on the ballot in order of their legal surnames, and, subject to subsection 27 (8), alphabetically arranged, with given names preceding the surnames, with the surnames in bold type, and with consecutive numbers preceding each candidate's name, and at his request any sobriquet or an abbreviation or familiar form of a given name may be used in lieu of a candidate's legal given name or names.

Form of ballot

(3) A circular space shall be shown on the ballot horizontally aligned with each candidate's name.

Idem

(4) The circular spaces, numbers, names of the candidates and any other information required under subsection 27 (8) shall be the natural colour of the ballot paper and the remainder of the face of the ballot shall be black.

Idem

- Idem (5) Subject to subsection 27 (8), there shall not be included with any candidate's name on the ballot any occupation, title, honour, decoration, degree, brackets or quotation marks.
- Numbering of ballots (6) The ballots shall be numbered consecutively on the stubs and shall be stapled or stitched into units as determined by the returning officer.
- Printing of ballots **35.**—(1) The Chief Election Officer or the returning officer shall cause to be printed on the approved paper a sufficient number of ballots for the election in the electoral district.
- Printer's name, etc. (2) The ballots shall bear upon the back the name of the electoral district, the date of polling and the name of the printer, and the printer shall provide to the returning officer the prescribed affidavit as to the number of sheets of ballot paper received and the disposition thereof including the total number of ballots printed and delivered to the returning officer.
- Count of ballots and affidavit (3) The returning officer shall immediately make a count of the ballots received from the printer and shall take the prescribed affidavit and forward it to the Chief Election Officer along with the affidavit referred to in subsection (2).
- Supply to D.R.O. **36.**—(1) The returning officer shall supply each deputy returning officer before the polling day with a ballot box, a certified copy of the polling list, the materials provided by the Chief Election Officer necessary for the proper conduct of the poll and a sufficient number of ballots for the electors at the polling place.
- Record of quantity of ballots provided (2) The returning officer shall specify in writing to each deputy returning officer the quantity of ballots provided and record their serial numbers and the record shall be forwarded to the Chief Election Officer with the other documents required to be forwarded at the close of the election.
- Count of ballots by D.R.O. (3) The deputy returning officer shall count and verify the quantity of ballots received from the returning officer and at the close of the poll forward a statement of such count to the returning officer along with the other poll documents and election material to be so forwarded.

BALLOT BOXES

- Ballot boxes to be supplied **37.**—(1) The Chief Election Officer shall supply each returning officer with as many ballot boxes as are required for the conduct of the election.

(2) Every ballot box shall be so constructed and sealed that on polling day the ballots can be deposited therein but cannot be withdrawn without unlawfully unsealing the box or without evidence remaining of such tampering.

How made

VOTING SCREENS

38.—(1) The returning officer shall furnish each deputy returning officer with at least two voting screens.

Voting screens to be furnished

(2) The deputy returning officer shall ensure that the voting screens at the polling place are positioned so that electors may mark their ballots with maximum privacy and without other persons being able to see how they are marked.

Privacy when marking ballots

(3) Except as provided by sections 14 and 55, not more than one elector shall be permitted to use a voting screen at any one time.

One elector only at a time

POLL OFFICIALS

39.—(1) At least seven days before polling day, lists of names of electors in the electoral district who are not candidates may be furnished to the returning officer,

Nomination of D.R.O. and poll clerk

- (a) as potential deputy returning officers, by the candidate of the registered party represented by the government of the day; and
- (b) as potential poll clerks, by the candidate of a different political interest, the candidate for which at the next preceding provincial election received the highest number of votes or the next highest number of votes, as the case may be.

(2) From the lists furnished to him as provided by subsection (1), the returning officer shall select and appoint a deputy returning officer and a poll clerk for each polling place so that they represent two different political interests.

Appointment of D.R.O. and poll clerk

(3) If sufficient names from which to select and make the appointment of the poll officials have not been received, the returning officer shall make such appointments as are necessary.

Insufficient nominations

(4) Deputy returning officers and poll clerks before acting shall take the prescribed oath and their appointment shall be endorsed upon or attached to the poll record.

Oath

Duties of
poll clerk

(5) As directed by the deputy returning officer, the poll clerk shall assist the deputy returning officer in the performance of the duties of his office and shall obey his orders.

Forfeiture
of right to
payment

(6) Deputy returning officers or poll clerks who neglect, omit or refuse to perform any of their duties under this Act may forfeit their right to payment for any service already rendered.

Death or
absence of
D.R.O.

(7) In case of the death, illness, absence, refusal or neglect to act, or in case from any cause the deputy returning officer becomes unable to perform his duties, until another deputy returning officer is appointed, the poll clerk shall act as deputy returning officer and perform all the duties and is subject to all the obligations of that office, without taking a new oath.

TIME OF GENERAL POLL

Hours of
polling
generally

40.—(1) Except as provided by subsections (2), (3) and (4), the general polls at every election to the Assembly shall open at 9 a.m. and close at 8 p.m. of the same day.

In Central
Time Zone

(2) In an electoral district that lies entirely west of the meridian of 90° W. longitude the general polls shall open at 8 a.m. and close at 7 p.m. of the same day.

C.E.O. may
establish
different
hours

(3) The Chief Election Officer may at his discretion establish any period of eleven consecutive hours on the general polling day for voting in an electoral district or part thereof.

When
voting not
commenced
or
interrupted

(4) If for any reason, voting at a polling place is not commenced at the proper time or is interrupted during the polling hours, the Chief Election Officer shall be advised by the returning officer and at his discretion, the Chief Election Officer shall,

(a) extend the closing time; or

(b) resume the polling on the following day at 9 a.m. and continue the same from day to day if necessary, until the poll has been open with free access to the electors for eleven hours in total.

PRESERVATION OF THE PEACE

Assistance
by justices
and police
officers

41. A returning officer or deputy returning officer may require the assistance of justices of the peace, police officers and other persons to aid him in maintaining peace and order at the election and may appoint as many such other persons as he considers necessary.

SECURITY OF PROCEEDINGS

42.—(1) In addition to any elector or electors in the process of voting, except as provided by sections 4, 7, 14, 44 and 55, the only persons permitted to remain in a polling place during the time the poll remains open and at the counting of the ballots are the deputy returning officer, the poll clerk, the candidates and not more than one scrutineer for each candidate at any one time.

Who may be in polling places

(2) Every deputy returning officer, poll clerk, candidate or scrutineer authorized to attend at a polling place shall take an oath of secrecy.

Oath of secrecy

(3) No person shall attempt to obtain at a polling place information as to the candidate for whom an elector is about to vote or interfere or attempt to interfere with an elector in a polling place.

Interference with electors

(4) Subject to sections 14 and 55, an elector shall not display his ballot to any person so as to indicate how he has voted.

Elector not to display ballot

(5) No person shall, directly or indirectly, induce or attempt to induce an elector to display his ballot to any person so as to indicate how he has voted.

Inducing elector to display ballot

(6) No person shall communicate any information obtained at a polling place as to the candidate for whom an elector is about to vote or has voted or whether he declined to vote.

Communicating information as to how elector is voting

(7) In any legal proceedings no person may be compelled to state for whom he voted or whether he marked his ballot or not.

No person compellable to disclose his vote

VOTING AT ONE PLACE ONLY

43. If the name of a person entitled to vote is entered on the polling list for more than one polling division he shall nevertheless vote only at one polling place.

Person to vote in one division only

ADVANCE POLLS

44.—(1) For the purpose of receiving the votes of electors who expect to be unable to vote on polling day in the electoral district for which their names appear on the polling list or on certificates to vote, advance polls shall be open,

Advance polls

- (a) in an office of the returning officer, provided that the ballots have been printed, on the 12th, 10th, 9th, 8th, 6th and 2nd day preceding polling day; and
- (b) at designated other locations on the Thursday, Saturday and Monday immediately preceding polling day.

Advance
polling
places

(2) The returning officer shall provide as many advance polling places under clause (1) (b) as are approved by the Chief Election Officer and shall select locations which give access to wheelchairs.

Time of
poll

(3) The advance polls in an electoral district shall be open from 11 a.m. to 8 p.m. or during such hours as are determined by the Chief Election Officer.

Notice
of polls

(4) At least three days prior to the first advance poll day under clause (1) (a), the returning officer shall cause a notice of the days, times and locations of the advance polls to be published in a sufficient number of newspapers to provide coverage throughout the electoral district.

Declaration

45.—(1) Every person offering himself as a voter at the polling place shall be required, before being allowed to vote, to take the prescribed declaration which shall be kept by the deputy returning officer with the other records of the poll.

List of
electors who
have voted

(2) Forthwith after the close of the poll each day, the deputy returning officer shall provide to the returning officer a list of the names, addresses and polling division numbers of all electors who have voted or forfeited their right to vote and the returning officer before polling day shall furnish every candidate in the electoral district with a copy of such list.

Noting other
D.R.O. lists

(3) The returning officer shall indicate in the polling list to be supplied to each deputy returning officer for polling day the name of each elector who at the advance poll has voted or forfeited his right to vote.

Candidates
and
scrutineers

(4) Candidates or their scrutineers are not entitled to be present when votes are cast at an advance poll held in the office of a returning officer.

Counting
of ballots

(5) On the general polling day, the deputy returning officer and the poll clerk shall, at the hour fixed for the closing of the general poll, and in the presence of such of the candidates or their scrutineers as are present, proceed to count the ballots cast.

(6) Except as in this section otherwise provided, the provisions of this Act relating to secrecy of proceedings, voting procedures, counting of the ballots and the reporting of the results apply with necessary modifications to voting under this section.

Application

(7) The vouching provisions of section 51 do not apply at an advance poll.

Vouching not to apply at advance poll

PROCEDURE AT THE POLL

46.—(1) The deputy returning officer and poll clerk shall attend at the polling place at least thirty minutes before the hour fixed for opening the poll.

Attendance of D.R.O. and poll clerk at polling place

(2) Any scrutineers present during the fifteen minutes before the opening of the poll are entitled to have the ballots counted in their presence and to inspect all other materials relating to the poll.

Counting ballots at opening of poll

(3) The deputy returning officer immediately before opening the poll shall show the empty ballot box to any persons present and shall then seal the box as prescribed by the Chief Election Officer in such manner as to prevent its being opened without breaking the seals.

D.R.O. to show box empty, then seal it

(4) Except as provided in subsection 14 (2) and subsection (5) of this section, the deputy returning officer shall then place and keep the ballot box on a desk, counter or table or otherwise position it above floor level in full view of all present and shall keep it sealed until the close of the poll.

Placement of ballot box

(5) The ballot box may be moved by the poll officials to facilitate voting by an elderly or disabled elector but where the box is so moved it may be accompanied by any scrutineer present and a record of any such action and any objection taken by a scrutineer shall be made in the poll record opposite the name of the elector.

When ballot box may be moved

47.—(1) Every elector upon entering the room or area where the poll is being held shall state his name and place of residence to the deputy returning officer, which particulars shall be entered in the poll record by the poll clerk.

Statement of name, etc., by elector

(2) Every elector who is entitled to vote shall receive from the deputy returning officer a folded ballot on the back of which the deputy returning officer has previously put his initials, so placed that when the ballot is refolded they can still be seen and upon the request of the elector, the deputy

D.R.O. to initial back of ballot

returning officer shall instruct the elector in the manner of marking and how to refold the ballot.

Where
oath
may be
required

(3) If a deputy returning officer has reason to believe that a person offering to vote is not an elector or has already voted, or is attempting to vote under a false name or designation or is personating or representing himself falsely as being upon the list, or when requested by a candidate or a scrutineer who is an elector, the deputy returning officer shall administer the prescribed oath to the elector.

Where
elector
alleges he
has
been
personated

(4) If a person representing himself to be an elector applies for a ballot after another person has voted as such elector, he is entitled to receive a ballot after taking the prescribed oath and otherwise establishing his identity to the satisfaction of the deputy returning officer, and a note shall be made in the poll record to that effect and of the oath having been taken and of any objections made on behalf of any, and of which, of the candidates.

Elector
refusing to
take oath

(5) An elector who has refused to take an oath when required so to do forfeits his right to vote.

Entry to be
made in
poll record

(6) The poll clerk shall indicate in the poll record opposite the name of each elector, as applicable, if an oath was administered or refused.

MARKING A BALLOT

Mode of
marking
ballot

48.—(1) The elector on receiving a ballot shall forthwith proceed to one of the voting screens and there, using a pencil or pen indicate the candidate of his choice by marking one of the circular spaces on the ballot with a cross or other mark in any colour.

Mode of
folding and
depositing
ballot

(2) The elector shall then refold his ballot so that the initials on the back are visible and hand it to the deputy returning officer who shall without unfolding it ascertain by examining his initials that it is the same ballot issued to the elector and shall then, in full view of all present, including the elector, place it in the ballot box, and thereupon the poll clerk shall indicate in the poll record that the elector has voted.

Elector to
leave polling
place after
voting

(3) An elector whose ballot has been placed in the ballot box shall be deemed to have voted and shall forthwith leave the polling place.

CERTIFICATE OF ERROR

49. The returning officer may certify for addition to the polling list, the name of any elector omitted in error, Certificate of error

- (a) upon the elector producing to the returning officer or to the deputy returning officer proof of enumeration; or
- (b) upon the returning officer being satisfied that such person was enumerated or was added at the revision,

and the returning officer shall furnish each candidate with a list of such certifications.

VOTING CERTIFICATES

50.—(1) An elector voting under the authority of a certificate issued by the returning officer or revision assistant shall surrender it to the deputy returning officer at the polling place before receiving a ballot. Surrender of certificate

(2) The deputy returning officer or poll clerk shall record in the poll record, opposite the name of the elector, the words “voted under certificate” and shall file the certificate in the envelope of election documents to be returned to the returning officer. Entry in poll record

VOUCHING

51.—(1) In a rural polling division, other than at an advance poll, an elector whose name was omitted from the polling list, may apply to the deputy returning officer to have his name added to the list and his name shall be added, Where elector's name omitted in rural polling division

- (a) if he takes the prescribed oath as to his eligibility to vote; and
- (b) if he is accompanied by an elector who is a resident in the same polling division and whose name is on the polling list and who vouches on oath that,
 - (i) he knows the person whose name has been omitted, and
 - (ii) he believes such person to be qualified to be entered on the list.

May vouch
for more
than one
elector

(2) An elector vouching, as provided by subsection (1), may do so for more than one elector.

Name to be
added to list

(3) The deputy returning officer after taking the prescribed oath shall cause the applicant's name to be added to the polling list and entered in the poll record with the words "vouched for" written thereafter.

Right to
vote

(4) The applicant, upon taking the oath and being vouched for, is entitled to vote.

BALLOT TAKEN FROM POLL

Electors not
to take
ballot from
polling
place

52. An elector who has received a ballot shall not take it out of the polling place and any elector who leaves without delivering the ballot to the deputy returning officer forfeits his right to vote and the deputy returning officer shall cause an entry to be made in the poll record that the elector took his ballot out of the polling place.

DECLINED BALLOT

Declined
ballot

53. An elector who has received a ballot and returns it to the deputy returning officer declining to vote, forfeits his right to vote and the deputy returning officer shall immediately write the word "declined" upon the back of the ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record that the elector declined to vote.

CANCELLED BALLOT

When ballot
may be
replaced

54. A ballot that,

- (a) has been improperly printed;
- (b) has been inadvertently dealt with in such manner that it cannot be used; or
- (c) has been issued to an elector who has marked it other than how he intended to mark it or for any reason objects to it and returns it to the deputy returning officer requesting another,

may be replaced with another ballot by the deputy returning officer who shall immediately write the word "cancelled" upon the back of the first ballot and preserve it to be returned to the returning officer and shall cause an entry to be made in the poll record stating the reason for cancelling the ballot.

DISABLED ELECTORS

- 55.—(1) On the application of any elector who is unable to read or who is disabled and thereby prevented from voting in accordance with the other provisions of this Act, the deputy returning officer may assist the elector to the voting screen or if the elector making the application takes an oath as to his inability to vote without assistance, shall thereafter assist the elector at the voting screen by marking his ballot in the manner directed by the elector in the presence of the poll clerk and of no other person, and place the ballot in the ballot box.

Disabled elector
- (2) The deputy returning officer shall either deal with an elector mentioned in subsection (1) in the manner provided therein or, at the request of such elector who has taken the prescribed oath and is accompanied by a friend, shall permit the friend to accompany the elector to the voting screen and there mark the elector’s ballot for him.

Ballot marked by friend
- (3) Any friend who is permitted to mark the ballot of an elector under subsection (2) shall first be required to take an oath that he will keep secret the name of the candidate for whom the ballot was marked.

Declaration to be made by friend
- (4) No person shall be allowed to act as the friend of more than one elector mentioned in subsection (1) at any polling place, other than a polling place established under section 14.

May act as friend once only
- (5) The deputy returning officer shall enter in the poll record opposite the elector’s name the reason why the ballot was marked by him or by a friend of the elector.

Entry in poll record

INTERPRETER AT THE POLL

56. Where neither the deputy returning officer nor the poll clerk understands the language spoken by an elector or where the elector is deaf, the elector has the right to the assistance of an interpreter who, after taking the prescribed oath, may translate any necessary declarations, documents or lawful questions put to the elector and the answers, but in the event of inability to secure an interpreter, the elector shall, for the time being, be refused a ballot.

When language spoken by elector not understood

COUNTING THE BALLOTS

- 57.—(1) Immediately after the close of the poll, the deputy returning officer shall count the number of electors who appear by the poll record to have voted and on such record shall enter that number and draw a bold double line immediately below the name of the elector who voted last, and shall

Duties of D.R.O. at close of poll

sign his name thereto, then, in the presence and in full view of the persons entitled to be present, as set out under subsection 42 (1), he shall open the ballot box and proceed to count the number of valid ballots cast for each candidate and all other ballots therein giving full opportunity to those present to see each ballot and observe the procedure.

What may be
accepted as
valid ballot

(2) Only a ballot which was supplied to the elector by the deputy returning officer and with only one of the circular spaces marked and upon which there is no writing or mark by which the voter can be identified shall be accepted as a valid ballot at the count.

Where ballot
not to be
rejected

(3) No word, letter or mark written or made or omitted to be written or made by the deputy returning officer on a ballot warrants its rejection.

Objections
to be noted

(4) The deputy returning officer shall make a note in the poll record of every objection taken to a ballot by a candidate or scrutineer and shall decide the objection, subject to review as hereinafter provided.

Numbered
and
initialled

(5) Each objection shall be numbered and a corresponding number placed on the back of the ballot and initialled by the deputy returning officer.

How ballots
to be
counted

58.—(1) All accepted ballots indicating the votes given for each candidate respectively and all unmarked, rejected, cancelled, declined and unissued ballots shall be counted and sealed in separate envelopes by the deputy returning officer and the stubs of any ballots issued shall be included in the envelope with the unissued ballots.

Candidates
and
scrutineers
may sign
envelope

(2) Any candidates or scrutineers present may write their signatures across the flap of any envelope containing ballots and may also affix their seals.

STATEMENT OF THE POLL

Statement
to be made
by D.R.O.

59.—(1) The deputy returning officer shall complete a prescribed statement of the poll, accounting for all the ballots supplied to him by the returning officer, and the statement shall be signed by the deputy returning officer and poll clerk and may be signed by any candidate or scrutineer present.

Disposition
of statements

(2) The deputy returning officer shall ensure that,

- (a) one part of the statement is enclosed in a special envelope supplied for the purpose of the official tabulation;

- (b) one part is placed in or attached to the poll record;
and
- (c) one part is retained by him.

CERTIFICATE OF COUNT

60. The deputy returning officer shall complete a prescribed certificate of the number of ballots cast for each candidate and of the number of rejected and unmarked ballots and shall provide a copy of the certificate for each candidate to the scrutineer present and in the case where no candidate or scrutineer is present the certificates shall be forwarded to the returning officer in the poll return envelope.

Certificate
of result
of poll

FINAL POLL PROCEDURE

61. The deputy returning officer and the poll clerk shall ensure that the poll record, polling list, ballot envelopes and all other documents collected or used at the polling place are placed in the poll return envelope and shall each take the prescribed oath that their duties have been completed.

Polling list,
etc., to be
placed in
poll return
envelope

62.—(1) The deputy returning officer shall then personally deliver the sealed poll return envelope along with the sealed official tabulation envelope to the returning officer or both envelopes shall be delivered by the poll clerk or by some other person chosen as special messenger by the returning officer or the deputy returning officer who shall write on the envelopes the name of the person to whom they were entrusted and shall take a receipt therefor.

Delivery of
poll return
envelope
to R.O.

(2) Any candidate or scrutineer present may affix his seal or write his signature across the flap of the sealed poll return envelope or the sealed official tabulation envelope.

Candidate or
scrutineer
may affix
seal

(3) In lieu of proceedings under subsection (1), the deputy returning officer, with the approval of the returning officer, may seal the official tabulation envelope inside of the poll return envelope and forward it by registered mail to the returning officer.

Registered
mail

(4) The poll clerk or other person authorized to personally deliver the envelopes to the returning officer shall do so forthwith and shall take before him the prescribed oath and any candidate or scrutineer is entitled to be present when the envelopes are so delivered to the returning officer.

Delivery to
be forthwith

RECEIPT OF POLL RETURN ENVELOPE BY RETURNING OFFICER

R.O. to
seal poll
return
envelope

63. Immediately on the receipt of a poll return envelope, without effacing or covering any seals already affixed to it, the returning officer shall affix a seal prescribed by the Chief Election Officer in such a way that the envelope cannot be opened without the seal being broken and shall take every precaution for its safekeeping and for preventing any person other than himself and the election clerk from having access to it.

OFFICIAL TABULATION

Conduct of
official
tabulation
by R.O.

64.—(1) The returning officer, at the place, day and hour stated in his notice of poll shall, in the presence of the election clerk and any candidate or candidate's delegate or scrutineer present, conduct the official tabulation by adding up the votes given for each candidate as taken from the official statements of the poll contained in the special envelopes returned to him or from such other sources as may be available to him but without opening any of the sealed envelopes containing ballots.

Adjournment
of official
tabulation

(2) The returning officer may adjourn the official tabulation proceedings to a future day and hour and so on from time to time but not in the aggregate to exceed fourteen days,

- (a) if any of the poll return envelopes or official tabulation envelopes have not been returned by the day fixed for the official tabulation;
- (b) if any deputy returning officer has not enclosed in the envelopes referred to in clause (a) the official statement of the ballots counted by him as required by this Act; or
- (c) if for any cause the returning officer cannot ascertain the number of votes given for each candidate.

Procedure
when poll
envelopes
lost,
statements
not available,
etc.

65. If, on the fifteenth day after the day fixed for the official tabulation,

- (a) any of the poll return envelopes are known to be lost or destroyed or for any reason have not been received; or
- (b) any statements or certificates of the ballot count at any polling places are not available and copies of them cannot be procured,

the returning officer shall ascertain, by such evidence or documents verified by declaration as he is able to obtain, the total number of votes given for each candidate at the several polling places and may summon any poll official, scrutineer or other person to appear before him, at a time and place to be named by him, with all necessary papers and documents and the returning officer shall notify the candidates of the intended proceedings and may examine any person so summoned respecting the matter in question.

66.—(1) At the close of the official tabulation, or hearings in the case of missing envelopes or statements, the returning officer shall forthwith declare to be elected the candidate having the largest number of votes. Declaration
of result

(2) If an equal number of votes is found to have been cast for two or more candidates and an additional vote would entitle one of them to be declared to be elected, the returning officer shall give the casting vote. Casting
vote

EFFECT OF IRREGULARITIES

- 67.** No election shall be declared invalid, Irregularities
not affecting
result
- (a) by reason of any irregularity on the part of the returning officer or in any of the proceedings preliminary to the poll;
 - (b) by reason of a failure to hold a poll at any place appointed for holding a poll;
 - (c) by reason of non-compliance with the provisions of this Act as to the taking of the poll, as to the counting of the ballots or as to limitations of time; or
 - (d) by reason of any mistake in the use of the prescribed forms,

if it appears to the tribunal having cognizance of the matter that the election was conducted in accordance with the principles of this Act and that the irregularity, failure, non-compliance or mistake did not affect the outcome of the election.

RECOUNT

68. Notice in writing of an application to be made under subsection 70 (1) shall be given forthwith by the applicant personally or sent by registered mail to the Chief Election Officer, the returning officer and election clerk, and each candidate in the electoral district. Notice

Interpretation

69.—(1) In this section and in sections 70 to 80, unless otherwise stated, “judge” means the judge of the county court of the county or of the district court of the provisional judicial district in which the electoral district or any part of it is situate and, where there are two or more judges, the senior judge or, in the case of illness or absence of the senior judge or where the senior judge requests him to act, another judge of the court.

What judge to hold recount when district in two or more counties

(2) Where the electoral district comprises parts of two or more counties or provisional judicial districts any application shall be to and the recount shall take place before the judge of the court of the county or provisional judicial district having the larger or largest population according to the last federal census.

Where recount may be had

70.—(1) For the purpose of determining the candidate who obtained the highest number of votes and within the four days, Sunday being excluded, following the official tabulation made by the returning officer, a judge may appoint a time and place to recount the votes cast at the election in the electoral district upon the application of a candidate or elector if it is made to appear by affidavit that,

- (a) a deputy returning officer has improperly counted any ballot or improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate; or
- (b) the returning officer has improperly tabulated the votes.

Security for costs

(2) An application under subsection (1) shall be accompanied by a receipt showing that there has been deposited with the clerk of the county or district court, as security for costs in connection with the recount, the sum of \$200 or money order or cheque in that amount drawn upon and accepted by a chartered bank or trust company doing business in Ontario.

Notice

71. Where an application for a recount is refused by the judge, notice of such refusal shall be given forthwith by the clerk of the court to those persons mentioned in section 68.

Notice of time and place of recount

72.—(1) At least two days notice in writing of the time and place appointed for the recount by the judge shall be given forthwith by the clerk of the court to those persons mentioned in section 68 in such manner as the judge directs.

Presence of clerk of court

(2) The judge may require the clerk of the county or district court to be present at the time and place appointed.

(3) The returning officer and the election clerk shall be present at the recount and each candidate is entitled to be present and to be represented by counsel and to have present and be represented by such scrutineers as are permitted by the judge, and except by such permission no other person shall be present.

Who to be present at recount

(4) The returning officer and the election clerk shall attend at the recount with all the poll return envelopes received from the deputy returning officers and the original statements of the poll which shall continue in the custody of the returning officer and he is responsible for them subject to any direction given by the judge.

Documents to be produced at recount

(5) At the time and place appointed, the judge shall proceed to make the recount from the original statements of the poll or have opened the sealed envelopes containing,

Procedure by judge

- (a) the ballots that have been counted for each candidate;
- (b) the ballots rejected as to marking; and
- (c) the ballots unmarked by any voters,

and may have opened the sealed envelopes containing,

- (d) the cancelled ballots;
- (e) the declined ballots; and
- (f) the unissued ballots.

73. The judge shall conduct the recount of the ballots according to the rules of the count at the close of the poll by the deputy returning officer, and shall verify or correct the statements of the poll.

Rules to govern judge at recount

74.—(1) If any person requests him to do so, the judge shall write the poll number on the back of and initial any disputed ballots and seal them in a separate envelope.

Distin-guishing disputed ballots

(2) Upon the completion of the recount, except as provided by subsection (1), the judge shall have sealed up all the ballots in their original envelopes and all the original statements in a separate envelope clearly marked as to its contents.

Sealing up ballots at close of recount

75.—(1) Where a poll return envelope used at a polling place was not available to the returning officer when he made his decision in respect of the number of votes given for a can-

Review of decision of R.O. when documents missing

didate or where the proper statement was not found in the official tabulation envelope, the judge shall, if necessary or required, review the decision of the returning officer.

Powers of
judge

(2) For the purpose of arriving at the facts, the judge has all the powers of the returning officer with regard to the attendance and examination of witnesses or he may act upon the evidence taken by the returning officer.

When judge
to certify
result of
recount

76.—(1) The judge shall certify in writing to the returning officer the result of the recount unless, during the two days following completion of his recount, Sunday being excluded, the judge receives a notice of appeal as provided in section 79.

Declaration
of result

(2) Upon receipt of the judge's certificate, the returning officer shall then declare the candidate having the largest number of votes to be elected but in the case of an equality of votes, the returning officer shall give the casting vote.

Costs

77.—(1) The costs of the recount, including the costs of the returning officer and the election clerk, are in the discretion of the judge who may, subject to subsection (3), order by whom, to whom, and in what manner they shall be paid.

Taxing and
allowing
costs

(2) The judge shall tax the costs and shall, as nearly as may be, follow the tariff of costs in respect of proceedings in the Supreme Court.

Where judge
makes no
provision
re costs

(3) Where the judge makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Deposits,
disposal of

78. Where costs are directed to be paid by the applicant, the moneys deposited as security for costs shall be paid out to the party entitled thereto, so far as necessary, and, if the deposit is insufficient, execution may issue out of the court of the county or judicial district upon the judge's order for the balance.

APPEAL FROM DECISION ON RECOUNT

Appeal from
decision of
judge

79.—(1) Any party may appeal from the decision of the judge who conducted the recount by giving notice in writing within two days after the completion of the recount to the other parties concerned and to the judge of his intention to appeal, and he may by the notice limit the appeal to specified ballots.

Service of
notice of
appeal

(2) The notice may be served upon the other parties personally, or upon the solicitor who acted for him upon the

recount by the judge, personally or at his office, or as a judge of the Supreme Court may direct.

(3) Where the appeal is limited, the judge who conducted the recount shall forward, in the envelope as provided for in subsection 74 (1), the ballots that are the subject of appeal together with the notice and a certificate showing his findings as to the ballots in dispute, by registered mail to the Registrar of the Supreme Court, but, if the appeal is not limited, the judge shall forward all the ballots and other papers to the Registrar, and in either case he shall await the result of the appeal before sending his certificate to the returning officer.

Ballots, etc.,
to be
forwarded
to Registrar
of Supreme
Court

(4) The judge who conducted the recount shall, upon request, allow each party to make a copy of the certificate of his findings before it is forwarded to the Registrar.

Allowing
copy
of certificate
of judge

(5) On receipt of the ballots and notice, the Registrar shall forthwith obtain an appointment from a judge of the Supreme Court for hearing the appeal and shall notify the parties or their solicitors of the time so appointed.

Appointment
for hearing
of appeal

(6) At the time appointed, the judge of the Supreme Court shall recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the judge who conducted the recount, whose duty it is to conform to the decision and to certify the result without delay to the returning officer.

Procedure
on hearing
of appeal,
certificate
of result

(7) The judge of the Supreme Court may direct by whom and to whom the cost of the appeal, including the costs of the returning officer and the election clerk, shall be paid.

Costs of
appeal

(8) The judge of the Supreme Court shall tax the costs of the appeal.

Taxing and
allowing costs

(9) Where the judge of the Supreme Court makes no provision as to costs, the costs of the returning officer and election clerk shall be paid by the Province of Ontario at the prescribed rates.

Idem

ELECTION RETURN

80.—(1) If a candidate has been declared elected by the returning officer as provided by section 28 or 30, or if the returning officer has received from a judge the certificate of the result of a recount or if by the seventh day following the completion of the official tabulation the returning officer,

When
return to
be made

- (a) has not received notice to attend before a judge for a recount; or
- (b) has received notice from a judge that a recount has been refused,

the returning officer shall send by registered mail, the writ with his dated and signed return to the Chief Election Officer that a candidate has been elected by acclamation or that the candidate having the largest number of votes has been duly elected and shall forward a copy of his return to each candidate.

Report
by R.O.

(2) The returning officer shall include with his return to the Chief Election Officer a report of the proceedings at the official tabulation making any observations he thinks proper as to the state of the poll return envelopes or the want of any statement of the ballots counted and the mode by which he ascertained the votes given for each candidate under section 65, if applicable.

Declaration
by R.O.

(3) The returning officer shall forthwith make the prescribed affidavit after sending his return, and it shall be sent forthwith to the Chief Election Officer.

Application
to compel
R.O. to add
up votes,
make return,
etc.

81.—(1) If a returning officer wilfully delays, neglects or refuses,

- (a) to add up the votes;
- (b) to declare to be elected the candidate having the largest number of votes;
- (c) to give his casting vote where he is by law required to do so; or
- (d) to make the return, as required by this Act, of the candidate having the largest number of votes,

R.S.O. 1980,
c. 224

and the person aggrieved or the Chief Election Officer or any elector applies under the *Judicial Review Procedure Act* for an order commanding the returning officer to perform the duty that is shown to have been not performed, the notice of motion shall be served upon the returning officer and upon the persons who were candidates at the election.

Application
of
R.S.O. 1980,
c. 223

(2) In other respects the *Judicature Act* and the rules of court made thereunder apply to such application.

(3) Nothing in this section affects or impairs any other right or remedy of the person aggrieved or of the Chief Election Officer.

Other rights and remedies

82. The Chief Election Officer, on receiving the return of a member elected to the Assembly, shall give notice of the receipt of the return in the next ordinary issue of *The Ontario Gazette*, the date of such receipt and the name of the candidate elected.

Notice of return in Ontario Gazette

DISPOSITION OF ELECTION DOCUMENTS AND MATERIAL

83.—(1) Forthwith after making his return, the returning officer shall arrange for shipment in the prescribed manner to the Chief Election Officer of all envelopes returned to him by the deputy returning officers, and all documents, papers, and materials in his possession relating to the conduct of the election but excluding those related to enumeration which shall be destroyed.

Shipment to C.E.O. of election documents

(2) The returning officer shall transmit all election material to the Chief Election Officer in boxes or packages marked “Used” or “Unused” and secured and sealed with the prescribed seals and the returning officer shall endorse on each box or package of used material a description of the contents, the date of the election and the name of the electoral district to which they relate.

Endorsement thereon

84.—(1) The Chief Election Officer shall retain in his possession the used documents transmitted to him by the returning officer under section 83 for at least one year, and if the election is contested, then for one year after the termination of the contestation.

How long to be retained

(2) If notice is served on the Chief Election Officer under subsection 98 (6) or if an order is made directing that documents relating to an election are not to be destroyed, he shall affix to the outside of the box or covering containing such documents a label having thereon in large and distinct letters the words “NOT TO BE DESTROYED”.

When documents not to be destroyed

85.—(1) All documents forwarded by a returning officer in pursuance of this Act to the Chief Election Officer, other than ballots, shall be open to public inspection at such time and under such conditions and rules as are made by him, and he shall supply copies of or extracts from the documents to any person demanding them on payment of the prescribed fee, and in computing the number of words a figure shall be counted as a word.

Inspection of documents

Inspection
of ballots
only under
order of
judge

(2) No person shall be allowed to inspect any ballot in the custody of the Chief Election Officer except under an order of a judge of the Supreme Court.

When order
to be
granted

(3) The order may be made on the judge being satisfied by affidavit or other evidence on oath that the inspection or production of the ballot is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballots or for the purpose of an action questioning an election or return.

Conditions
of order

(4) The order may be made subject to such conditions as the judge thinks proper.

Where
inspection
takes place

(5) Subject to the order, the inspection shall take place under the immediate supervision of the Registrar of the Supreme Court, and he shall be present during the inspection, and, so long as the ballots are in the custody of the Registrar and not under inspection, they shall be kept in a secure place under lock and key.

Evidence as
to
documents,
etc.,
in certain
cases

86. Where an order is made by a judge of the Supreme Court for the production by the Chief Election Officer of any document in his possession relating to an election, the production of it by him, in such manner as is directed by the order, is evidence that the document relates to the election, and any endorsement appearing on any envelope containing ballots so produced is evidence that the contents are what they are stated to be by the endorsement.

Inspection of
documents
under
order of
committee of
Assembly

87. Notwithstanding the provisions of this or any other Act, all documents, including used and unused ballots, relating to an election in the custody of the Chief Election Officer or of any other person may be opened, inspected and examined under such conditions and rules as are made by a committee of the Assembly for the purpose of inquiring into any matter referred to the committee by order of the Assembly, and, upon any such proceeding before the committee, any such document may be filed as an exhibit, and any person summoned to attend and give evidence before the committee upon such inquiry may be examined or cross-examined in relation thereto.

Report re
conduct of
election

88. The Chief Election Officer, in addition to any other requirements of this Act in respect of the tabling of the results of an election, shall report to the Assembly through the Speaker whether or not in his opinion the conduct of the election was free or otherwise of any of the actions which are declared to be offences or corrupt practices under this Act.

CORRUPT PRACTICES AND OTHER OFFENCES:
PENALTIES AND ENFORCEMENT

89. Every person who, at an election,

Voting when
not qualified,
etc.

- (a) not being qualified to vote, votes; or
- (b) being qualified to vote, votes more than once; or
- (c) votes in an electoral district or polling division other than the one in which he is entitled to vote by this Act,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

90. Every person who,

Improper
voting by
proxy, etc.

- (a) appoints a proxy for reward or remuneration;
- (b) induces or procures any elector by undue influence to appoint a voting proxy to vote at an election;
- (c) unduly solicits or attempts to solicit from an elector an appointment as a voting proxy to vote at an election;
- (d) having appointed a voting proxy to vote at an election, attempts to vote at the election otherwise than by means of such voting proxy while the voting proxy is in force;
- (e) knowingly appoints more than one person as a voting proxy; or
- (f) having been appointed a voting proxy at an election, votes or attempts to vote at the election under the authority of the proxy when he knows or had reasonable grounds for supposing that his appointment has been cancelled or that the elector who made the appointment is no longer entitled to vote or is dead,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

91. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise wilfully makes up a

Wilful
miscount
of ballots

false statement of the poll is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

Neglect
of duties

92. Every returning officer, election clerk, revision assistant, deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by this Act is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

Offences
relating to
ballot papers

93. Every person who,

- (a) without authority, supplies a ballot to any person;
- (b) without authority, places in a ballot box anything other than an official ballot;
- (c) delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot given to him by the deputy returning officer;
- (d) takes a ballot out of the polling place;
- (e) without authority, is found to be in possession of, takes, opens or otherwise interferes with, a ballot box, a ballot or books or packet of ballots provided for use at, in use, or used for the purpose of an election;
- (f) being a deputy returning officer, knowingly puts his initials on the back of any paper purporting to be or capable of being used as a ballot at an election;
- (g) being authorized by the returning officer or Chief Election Officer to print the ballots for an election, prints more than he is authorized to print; or
- (h) attempts to commit any offence mentioned in this section,

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

False
information
to authorized
persons

94. Every person who knowingly furnishes false or misleading information to a returning officer or to any person who by this Act is authorized to act as an election official is guilty of an offence and on conviction is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

95. Every person who,

- (a) induces or procures any person to vote knowing that that person has no right to vote; or
- (b) before or during an election knowingly publishes a false statement of the withdrawal of a candidate,

Inducing unqualified person to vote, etc.

is guilty of a corrupt practice and is liable to a fine of not more than \$5,000 or to imprisonment for a term of not more than six months, or to both.

96. Every person who contravenes any of the provisions of this Act, for which contravention no penalty is otherwise provided, is guilty of an offence and on conviction is liable to a fine of not more than \$5,000.

General offence

97.—(1) Where a candidate at an election is convicted of committing a corrupt practice, the candidate is ineligible to stand as a candidate at any election or to hold any office at the nomination of the Crown or the Lieutenant Governor in Council for eight years following the date of the official return.

Disqualification of candidates guilty of corrupt practice

(2) If, when the candidate is convicted of committing a corrupt practice, the presiding judge finds that the act constituting in law a corrupt practice was committed without any corrupt intent, the candidate is not subject to the penalties and disabilities provided by subsection (1).

Limitation

CONTESTED ELECTIONS

98.—(1) The validity of the election in any electoral district or of the election of any person to the Assembly or of the right of any person to sit in the Assembly or whether or not any person is guilty of a corrupt practice shall be tried and determined by an action commenced by issuing a writ in the Supreme Court.

Validity of election, determination by action

(2) Where the Supreme Court determines that a person has committed a corrupt practice it may, in addition to any other penalty or order, impose the penalties provided therefor under sections 89 to 97.

Penalties for corrupt practice

(3) A candidate at an election or any elector qualified to vote at an election or the Chief Election Officer, if he considers that it is in the public interest that an action be commenced, may commence an action.

Who may commence action

Time for
commencing
action

(4) No action shall be commenced after the expiration of ninety days following the date of the official election return, but this subsection does not apply to the Chief Election Officer who may commence an action under this section at any time.

Local
registrar
to notify
Registrar

(5) Upon receipt of a writ of summons, the local registrar of the Supreme Court shall send notice thereof by registered mail to the Registrar of the Supreme Court.

Registrar
to notify
C.E.O.

(6) The Registrar shall send a notice by registered mail to the Chief Election Officer of every writ of summons issued under this section by anyone other than the Chief Election Officer.

C.E.O. to
notify
Assembly
and
returning
officer

(7) The Chief Election Officer shall notify the Assembly, through the Clerk of the Assembly, of any action commenced under the authority of this section, and shall also notify the returning officer of the electoral district to which the writ of summons relates.

Publication
of notice
by returning
officer

(8) The returning officer, after receipt of a notification under subsection (7), shall forthwith publish a notice thereof in the prescribed form once in a newspaper having general circulation in the electoral district.

Practice
and
procedure

99.—(1) Where not otherwise provided in this Act and subject to the rules of court, the practice and procedure of the Supreme Court apply to an action commenced under section 98.

Judge
without jury

(2) The action shall be tried by a judge without a jury.

Intervention
in action by
C.E.O.

100.—(1) The Chief Election Officer, following receipt of the notice under subsection 98 (6), may apply to a judge of the Supreme Court, or to the judge presiding at the trial for leave to intervene in the action for the purpose of bringing any evidence before the court or for any other valid reason.

Notice of
application
to be filed
and served

(2) Where the Chief Election Officer applies prior to the trial for leave to intervene, he shall file notice of the application in the office in which the action was commenced and shall serve copies thereof on all parties.

Where leave
granted

(3) If the judge grants leave to intervene, he shall give directions as to appearance and procedure in respect of the Chief Election Officer including leave to subpoena witnesses to attend at the trial, and thereafter, the Chief Election Officer shall be served with all proceedings in the action.

101.—(1) At the time of the commencement of an action, security shall be given on behalf of the plaintiff, other than the Chief Election Officer, to be applied towards payment of all costs, charges and expenses, if any, that may become payable by the plaintiff, including the costs and charges of the election officer incurred in the publication of notices in the electoral district in respect of the writ of the action or proceedings therein.

Security
for costs

(2) The security shall be in the amount of \$2,000 and shall be given in accordance with the practice in cases where a plaintiff resides out of Ontario.

Idem

102. A disclaimer by an elected member under the *Legislative Assembly Act* does not affect the right of any person entitled to commence an action under section 98 and an action may be commenced in the same manner as if the member elected had not disclaimed.

Disclaimer
not to affect
action
R.S.O. 1980,
c. 235

103.—(1) An action abates on the death of a sole plaintiff or the survivor of several plaintiffs.

Abatement
of action

(2) The abatement of an action does not affect any liability for costs previously incurred.

Liability
for costs

(3) On the abatement of an action, notice of the abatement shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district and any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be substituted as the sole plaintiff.

Substitution
of plaintiff

104. Where a plaintiff is not qualified to be a plaintiff in an action under section 98, the action shall not on that account be dismissed if within such time as a judge of the Supreme Court or, during the trial, the trial judge allows for that purpose, another plaintiff is substituted and substitution shall be made on such terms and conditions as the judge considers proper.

Substitution
for
unqualified
plaintiff

105.—(1) If, before or during the trial,

Death of
defendant,
etc., at
or before
trial

(a) the defendant dies; or

(b) the Assembly resolves that the seat is vacant; or

(c) the defendant gives notice to the court that he does not intend to oppose, or further oppose the action,

notice of such event shall be given by the Registrar of the Supreme Court in the prescribed form in the electoral district.

Substituted
as further
defendant

(2) Within twenty days after notice is given in the electoral district under subsection (1), any person who might have been a plaintiff may apply to a judge of the Supreme Court or, during the trial, to the trial judge to be admitted as a defendant to oppose the action, or so much thereof as remains undisposed of, and may be admitted accordingly, either with the defendant, if there is a defendant, or in place of the defendant, and any number of persons not exceeding three, may be so admitted.

Adjournment
of trial

(3) If any of the events mentioned in subsection (1) happen during the trial, the court shall adjourn the trial in order that notice may be given in the electoral district.

Where notice
of intention
not to
oppose
given

(4) The defendant who has given the notice under clause (1) (c) shall not be allowed to appear or act as a party against the action in any proceeding thereon and shall not sit or vote in the Assembly until the Assembly has been informed of the judgment in the action, and the court shall report the giving of the notice to the Assembly through the Clerk of the Assembly.

Declaration
that election
void

106.—(1) Where it is determined that the successful candidate is guilty of a corrupt practice, the court may declare his election void.

Unseating
and seating
of another
candidate

(2) Where the election of any person is declared void, the court may order that he be removed from office and, if it is determined that any other person was elected, that he be admitted to take his seat in the Assembly or, if it is determined that no other person is elected, the court may provide for the holding of a new election.

Where result
of election
affected

(3) Where it is determined that any person is guilty of a corrupt practice and that the commission of the corrupt practice affected the result of the election, the court may declare the election void and provide for holding a new election.

Unseating of
disqualified
person

(4) Where it is determined that a person elected has become disqualified or has forfeited his seat, the court may order that he be removed from office and provide for the holding of a new election.

Where act or
omission
affects
result of
election

(5) Where it is determined that any act or omission of an election official affected the result of an election, the court may declare the election void and provide for holding a new election.

(6) Where a new election is ordered, the court may make such order as it considers just, against any person who is found guilty of an offence or a corrupt practice under this Act, for the compensation of candidates at the void election, not exceeding \$15,000 per candidate.

Compensation of candidate where election void

(7) The Registrar of the Supreme Court shall forward the judgment and the reasons for judgment to the Assembly through the Clerk of the Assembly.

Judgment to Legislative Assembly

107.—(1) If the court determines that a member was not duly returned, notwithstanding that an appeal from the decision is pending, he is not entitled to sit or vote in the Assembly until the appeal is disposed of and the judgment of the court is received by the Assembly, but where the court determines that some other person was elected or is entitled to the seat, such person is, notwithstanding that an appeal is pending, entitled to take his seat in the Assembly and to sit and vote until the appeal is disposed of and the judgment of the court is received by the Assembly.

Where election set aside and appeal entered

(2) In the cases to which subsection (1) applies, where an appeal is entered, the Registrar shall forthwith notify the Clerk of the Assembly that an appeal is pending from the decision of the court.

Notice of appeal to Clerk

108. A writ for a new election shall not be issued until after the expiration of the time limited for appeal from the determination of the Supreme Court that the election is void and, if an appeal is brought, the writ shall not issue pending the appeal.

Time for issue of writ for new election

109.—(1) An appeal lies from the judgment of the Supreme Court to the Court of Appeal.

Appeals to Court of Appeal

(2) The Registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within ten days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the trial judge, and to the Chief Election Officer, notice in writing that the case has been so set down, and the appeal shall be heard by the Court of Appeal as speedily as practicable.

Setting down for hearing, etc.

(3) The Court of Appeal may give any judgment that ought to have been pronounced or may grant a new trial for the purposes of taking evidence or additional evidence and may remit the case to the trial judge or to another judge and, subject to any directions of the Court of Appeal, the case shall thereafter be proceeded with as if there had been no appeal.

Judgment or new trial

Appeal from
decision on
new trial

(4) An appeal lies from the decision of the trial judge to whom the case was remitted by the Court of Appeal in accordance with the provisions of this section.

Inquiry as
to extensive
corrupt
practices

110. The Lieutenant Governor in Council, upon the recommendation of the Assembly, may issue a commission to inquire into whether corrupt practices extensively prevailed at the election and the commission has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to the inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

ELECTION FEES AND EXPENSES

Regulations

111. The Lieutenant Governor in Council may make regulations,

- (a) prescribing the fees and expenses to be allowed to the officers and other persons, except those in the office of the Chief Election Officer, for their services and disbursements under this Act; and
- (b) prescribing the costs that shall be paid by the Province of Ontario under sections 77 and 79.

Payment of
expenses
of Act

112.—(1) The fees and expenses to be allowed to the election officers, returning officers and persons for services performed under this Act, so far as they are payable by the Province of Ontario, are payable out of the Consolidated Revenue Fund.

Premises and
equipment

(2) The Chief Election Officer may lease such premises and acquire such equipment and supplies as are necessary to properly carry out his responsibilities under this Act.

Clerical and
technical
assistance

(3) The Chief Election Officer from time to time may appoint such persons having technical or special knowledge of any kind to assist the Chief Election Officer for a limited period of time, or in respect of a particular matter.

Accountable
warrants

(4) For the purpose of providing the funds required under this section, the Lieutenant Governor in Council may direct that accountable warrants payable out of the Consolidated Revenue Fund be issued from time to time in favour of any officer or other person.

Accounts and
audit

(5) The sums paid out under this section shall be duly accounted for by the production of accounts and vouchers but it is not necessary that such accounts or vouchers be furnished by any person in whose favour an accountable warrant was issued before the issue of a further accountable warrant to the

same person, unless the Lieutenant Governor in Council otherwise directs.

(6) All accounts respecting such fees and expenses shall be audited by the Provincial Auditor.

Audit by
Provincial
Auditor

OFFICE OF THE CHIEF ELECTION OFFICER

113.—(1) Subject to the approval of the Board, the Chief Election Officer may employ such persons on his permanent staff as are necessary in the performance of his duties and for the efficient and proper operation of his office and may, for such employees, establish job classifications, and may determine the salary of the Assistant Chief Election Officer and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees on the permanent staff of his office and the Chief Election Officer shall present annually to the Board estimates of the sums of money that will be required for these purposes.

Staff

(2) The Board shall review and may alter as it considers proper the estimates referred to in subsection (1), and the chairman of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review.

Review of
estimates
by Board

(3) The moneys required for the purposes of this section shall be paid out of the moneys appropriated therefor by the Legislature.

Moneys

114.—(1) Every employee of the office of the Chief Election Officer, before performing any duty as such, shall take and subscribe the prescribed oath of office and secrecy and, if required by the Chief Election Officer, the prescribed oath of allegiance.

Oath of
office and
secrecy and
oath of
allegiance

(2) The Chief Election Officer may require any person appointed to assist the Chief Election Officer for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths referred to in subsection (1).

Idem

(3) A copy of each oath administered to an employee of the office of the Chief Election Officer under subsection (1) shall be kept in the file of the employee in the office of the Chief Election Officer.

Record of
oaths

Cause for
dismissal

(4) The failure of an employee of the office of the Chief Election Officer to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal.

Benefits
R.S.O. 1980,
c. 418

115.—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Chief Election Officer, the Assistant Chief Election Officer, and to the full-time permanent and probationary employees of the office of the Chief Election Officer and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Chief Election Officer or any person authorized in writing by the Chief Election Officer may exercise the powers and duties of a deputy minister under that Act in respect of such benefits.

Super-
annuation
benefits
R.S.O. 1980,
c. 419

(2) The *Public Service Superannuation Act* applies to the full-time permanent and probationary employees of the office of the Chief Election Officer as though the office of the Chief Election Officer were a commission designated by the Lieutenant Governor in Council under section 28 of that Act and to the Chief Election Officer and Assistant Chief Election Officer as though they were members of such a commission who held positions designated by and whose requests for such designations had been approved by the Lieutenant Governor in Council under section 28 of that Act and all credits in the Public Service Superannuation Fund of the full-time permanent and probationary employees of the office of the Chief Election Officer and of the Chief Election Officer and the Assistant Chief Election Officer accumulated under that Act immediately before this Act comes into force are preserved and continued in accordance with that Act.

Conduct
and
discipline

116.—(1) The Chief Election Officer may make orders and rules for the conduct of the internal business of the office of the Chief Election Officer and, after a hearing, may suspend, demote or dismiss any employee of the office for cause.

Hearing
R.S.O. 1980,
c. 418

(2) The provisions of the *Public Service Act* and the regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Chief Election Officer is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an

employee of the Office, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister.

(3) A decision of the Chief Election Officer to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to him, to the Public Service Grievance Board established under the *Public Service Act*.

Appeals

R.S.O. 1980,
c. 418

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Chief Election Officer shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Chief Election Officer and to the appellant.

Board
authorized
to hear
appeals

MISCELLANEOUS

117. Section 6 of the *Legislative Assembly Act*, being chapter 235 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6. The persons qualified to sit and vote as members of the Assembly are any persons of the full age of eighteen years who are Canadian citizens resident in Ontario and not disqualified by this or any other Act from election to the Assembly.

Qualification
of members

118. The *Election Act*, being chapter 133 of the Revised Statutes of Ontario, 1980, is repealed.

Repeal

119.—(1) This Act, except section 117, comes into force on the day it receives Royal Assent.

Commence-
ment

(2) Section 117 comes into force and has effect on the day after the day the Legislature is dissolved or ended by the effluxion of time, where the day of dissolution or ending falls after the 1st day of July, 1986.

Idem

120. The short title of this Act is the *Election Act, 1984*.

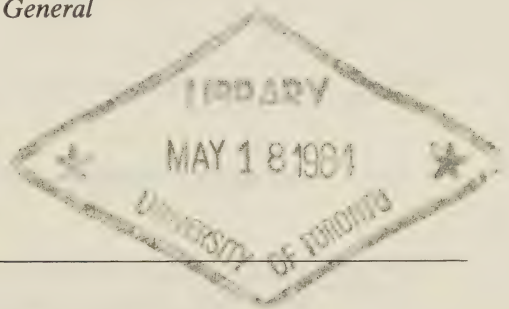
Short title

Bill 18

*(Chapter 8
Statutes of Ontario, 1984)*

An Act to amend the Justices of the Peace Act

The Hon. R. McMurtry
Attorney General



<i>1st Reading</i>	March 29th, 1984
<i>2nd Reading</i>	April 10th, 1984
<i>3rd Reading</i>	April 24th, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 18**1984****An Act to amend the Justices of the Peace Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Justices of the Peace Act*, being chapter 227 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following subsections:

(4) Subject to subsection (5), a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (criminal division) or a judge designated by him. Duty roster

(5) In respect of matters pertaining to the business of the provincial courts (family division) a justice of the peace shall not perform duties for which he is remunerated by a fee except in accordance with a duty roster established by the chief judge of the provincial courts (family division) or a judge designated by him. Idem

(6) The duty rosters established under subsections (4) and (5) shall be available to the public. Duty rosters public

2. Subsection 7 (2) of the said Act is repealed and the following substituted therefor:

(2) The Lieutenant Governor in Council may authorize the payment of a salary to a justice of the peace and may make regulations, Salaries and benefits

(a) fixing the salaries of justices of the peace;

(b) providing for the benefits to which justices of the peace who are paid by salary are entitled, including,

(i) leave of absence and vacations,

- (ii) sick leave credits and payments in respect of such credits,

and for the transfer or other disposition of benefits in respect thereof to which persons appointed as justices of the peace who are paid by salary were entitled under the *Public Service Act* at the time of their appointment.

R.S.O. 1980,
c. 418

3. The said Act is amended by adding thereto the following sections:

Retirement

7a.—(1) Every justice of the peace who is paid by salary shall retire upon attaining the age of sixty-five years.

Continuation
in office

(2) A justice of the peace who is paid by salary and who has attained the age for retirement under subsection (1) may, subject to the annual approval of the chief judge of the provincial courts (criminal division) or the chief judge of the provincial courts (family division), continue in office as a justice of the peace who is paid by salary until he attains the age of seventy years.

Idem

1984, c. 8

(3) A justice of the peace who is paid by salary and who is of the age of sixty-five years or more and is in office on the day the *Justices of the Peace Amendment Act, 1984* comes into force may continue in office until his next birthday and thereafter may continue in office, subject to subsection (2).

Removal
for cause

7b.—(1) A justice of the peace may be removed from office before attaining retirement age only if the justice of the peace has become incapacitated or disabled from the due execution of his office by reason of,

- (a) infirmity;
- (b) conduct that is incompatible with the execution of his office; or
- (c) having failed to perform the duties of his office,

and only if a complaint against the justice of the peace has been investigated by the Justices of the Peace Review Council.

Order for
removal

(2) An order removing a justice of the peace from office under this section may be made by the Lieutenant Governor in Council, and the order and recommendation of the Justices of the Peace Review Council shall be laid before the Legisla-

tive Assembly if it is in session or, if not, within fifteen days after the commencement of the next ensuing session.

4.—(1) Clause 8 (3) (b) of the said Act is repealed and the following substituted therefor:

(b) to receive complaints against justices of the peace.

(2) Subsection 8 (4) of the said Act is amended by striking out “Attorney General” in the fifth line and inserting in lieu thereof “chief judge”.

(3) Section 8 of the said Act is amended by adding thereto the following subsection:

(5a) The investigation of a complaint against a justice of the peace may be held in public or in private, unless the Attorney General requires that it be held in public.

Investigations
in public or
private

5. This Act shall not be considered in the judicial determination of an issue as to the jurisdiction of a justice of the peace on the ground that he does not have the degree of independence required by the Canadian Charter of Rights and Freedoms, if the issue was raised in a proceeding before the 29th day of March, 1984 and has not been finally disposed of before this Act comes into force.

Consideration
of
amendments
in certain
pending
proceedings

6. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

7. The short title of this Act is the *Justices of the Peace Amendment Act, 1984*.

Short title

Bill 19

An Act to amend the Planning Act, 1983

Mr. Swart

1st Reading March 29th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill provides the means to ensure priority in preserving Ontario's best agricultural land for food growing purposes.

Bill 19

1984

An Act to amend the Planning Act, 1983

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Planning Act, 1983*, being chapter 1 of the Statutes of Ontario, 1983, is amended by adding thereto the following section:

2a. The Minister, the council of every municipality, every local board, every minister of the Crown and every ministry, board, commission or agency of the government, including the Municipal Board and Ontario Hydro shall, in exercising any authority that affects any planning matter, give priority to the preservation, for agricultural purposes, of all specialty crop lands and of lands designated as Class 1, 2 or 3 by the Canada Land Inventory of Soil Capability.

Preservation
of
agricultural
lands

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Planning Amendment Act, 1984*.

Short title

Bill 23

An Act to amend the Condominium Act

Mr. Philip

1st Reading April 2nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would repeal unproclaimed provisions of the *Condominium Act* that relate to a condominium bureau and, instead, provide for a registrar of condominiums who would give advisory services to the public, maintain a register of the mailing addresses of condominiums and issue licences to condominium managers.

Condominium management would be restricted to licensees, except in the case of managers of a single condominium having no more than 100 units, and the Lieutenant Governor in Council would be empowered to make regulations requiring the posting of bonds. The Association of Condominium Managers may, with the approval of the Lieutenant Governor in Council, set standards for managers.

The Bill also provides a consensual procedure for the review and resolution of disputes within a condominium.

Bill 23

1984

An Act to amend the Condominium Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 (1) of the *Condominium Act*, being chapter 84 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ya) “tribunal” means The Commercial Registration Appeal Tribunal continued under the *Ministry of Consumer and Commercial Relations Act*. R.S.O. 1980,
c. 274

2. The said Act is amended by adding thereto the following section:

21a. The corporation shall advise the registrar of condominiums appointed under subsection 56 (1) of its mailing address and shall forthwith advise the registrar of any changes in its mailing address. Mailing
address

3. Section 55 of the said Act is amended by striking out “subsection 56 (8)” in the third line and inserting in lieu thereof “subsection 56 (4), (5) or (6)”.

4. Section 56 of the said Act is repealed and the following substituted therefor:

56.—(1) There shall be a registrar of condominiums who shall be appointed by the Lieutenant Governor in Council. Registrar

(2) The registrar of condominiums may exercise the powers and shall perform the duties conferred or imposed upon him by or under this Act. Powers

(3) The registrar shall, Duties

(a) provide an information and advisory service to corporations, condominium managers and purchasers and owners of units for residential purposes and

issue information pamphlets in such languages as the registrar considers necessary; and

- (b) maintain and make available to the public a register of the mailing addresses of all corporations in Ontario.

Condominium
manager's
licence

(4) No person shall enter into an agreement to manage the property of a corporation unless he is the holder of a licence issued by the registrar.

Staff
to be
licensed

(5) No holder of a licence issued by the registrar shall employ a person to manage the property of a corporation unless the person is the holder of a licence issued by the registrar.

Conflict of
interest

(6) No person who owns more than two units in a corporation shall enter into an agreement to manage the property of the corporation.

Exception

(7) Despite subsection (4), an individual may, without being the holder of a licence issued by the registrar, enter into an agreement to manage the property of one corporation having no more than 100 units.

Issuance of
licences

(8) The registrar shall issue licences to manage the property of corporations and an applicant for a licence is entitled to a licence or renewal of a licence except where,

- (a) having regard to his financial position the applicant cannot be reasonably expected to be financially responsible in the conduct of his business; or
- (b) the past conduct of the applicant affords reasonable grounds for belief that he will not carry on business in accordance with the law and with integrity and honesty; or
- (c) the applicant is a corporation and,
 - (i) having regard to its financial position, it cannot reasonably be expected to be financially responsible in the conduct of its business, or
 - (ii) the past conduct of its officers or directors affords reasonable grounds for belief that its business will not be carried on in accordance with the law and with integrity and honesty;

- (d) the applicant is carrying on activities that are or will be, if the applicant is licensed, in contravention of this Act or the regulations.

(9) Subject to subsection (11), the registrar may refuse to issue a licence to an applicant where in the registrar's opinion the applicant is not entitled to registration under subsection (8). Refusal of licence

(10) Subject to subsection (11), the registrar may refuse to renew or may suspend or revoke a licence for any reason that would disentitle the licensee to a licence under subsection (8) if he were an applicant or where the licensee is in breach of a term or condition of the licence. Idem

- (11) Where the registrar proposes, Notice of proposal
- (a) to refuse to grant or renew a licence; or
- (b) to suspend or revoke a licence,

he shall serve notice of his proposal together with written reasons therefor on the proposed applicant or licensee.

(12) A notice under subsection (11) shall inform the proposed applicant or licensee that he is entitled to a hearing by the tribunal if he mails or delivers, within fifteen days after the notice under subsection (11) is served on him, notice in writing requiring a hearing to the registrar and the tribunal, and he may so require such a hearing. Hearing

(13) Where a proposed applicant or licensee does not require a hearing by the tribunal in accordance with subsection (12), the registrar may carry out the proposal stated in his notice under subsection (11). Where hearing not required

(14) Where a proposed applicant or licensee requires a hearing by the tribunal in accordance with subsection (12), the tribunal shall appoint a time for and hold the hearing, and on the application of the registrar at the hearing may, by order, direct the registrar to carry out his proposal or refrain from carrying out his proposal and to take such action as the tribunal considers the registrar ought to take in accordance with this Act and the regulations, and for such purposes the tribunal may substitute its opinion for that of the registrar. Hearing

(15) The tribunal may attach such terms and conditions to its order or to the licence as it considers proper to give effect to the purpose of this Act. Terms and conditions

Parties

(16) The registrar, the applicant or licensee who has required a hearing and such other persons as the tribunal may specify are parties to the proceedings before the tribunal under this section.

Continuation
of
registration

(17) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for renewal of his licence and paid the prescribed fee, his registration shall be deemed to continue,

(a) until renewal is granted; or

(b) where he is served with notice that the registrar proposes to refuse to grant the renewal, until the time for giving notice requiring a hearing has expired and where a hearing is required, until the tribunal has made its order.

Complaints

(18) Where the registrar receives a complaint in respect of a person licensed to manage the property of condominium corporations and so requests in writing, the person receiving the request shall furnish the registrar with such information respecting the matter complained of as the registrar requires.

Inspections

(19) The registrar or any person designated by him in writing may at any reasonable time enter upon the business premises of a person licensed to manage properties to make an inspection to ensure that the provisions of this Act and the regulations are being complied with.

5. Sections 57 and 58 of the said Act are repealed and the following substituted therefor:

Review
officers

57.—(1) The Lieutenant Governor in Council shall appoint review officers who shall perform the duties and exercise the powers given to them by this Act and the regulations and the officers so appointed shall be public servants within the meaning of the *Public Service Act*.

R.S.O. 1980,
c. 418

Reference
to
tribunal

(2) Where there is a dispute between a corporation and an owner, between two or more owners, between a corporation and the condominium manager or between an owner and the condominium manager in respect of any matter relating to this Act, the declaration, by-laws or rules, the parties to the dispute may, prior to the commencement of any court proceeding in respect of the same matter, refer the matter in dispute to the tribunal for arbitration and resolution.

Written
notice

(3) Within fourteen clear days after the matter has been referred to the tribunal, the tribunal shall give written notice

to all parties of the date, time and place for the consideration of the matter in dispute and shall designate a review officer to hear the matter in dispute.

(4) For the purpose of a hearing under subsection (3), the review officer may inquire into any matter relevant to the subject-matter of the dispute, whether or not previously brought to his attention by the parties.

Inquiry
by review
officer

(5) Upon completing the hearing, the review officer may make an order ordering any party to the hearing to do or to refrain from doing any act that is the subject-matter of the hearing.

Order
by review
officer

(6) An order under subsection (5) shall state that every party to the hearing is entitled to appeal the order to the tribunal and shall specify the place where the appeal may be filed.

Appeal to
tribunal

(7) On the request of any party to the hearing, the review officer shall file a copy of any order made by him under subsection (5) in the office of the Registrar of the Supreme Court under section 19 of the *Statutory Powers Procedure Act* that applies thereto.

Filing copy
of order

(8) Except as provided in subsection (7), the *Statutory Powers Procedure Act* does not apply to proceedings before the review officer.

Application
of
R.S.O. 1980,
c. 484

(9) Every party to a hearing may appeal a review officer's order by filing a notice of appeal with the tribunal within twenty-one days after being served with notice of the review officer's order.

Notice of
appeal

(10) On an appeal, the tribunal may proceed by way of a hearing *de novo* and, after the hearing, the tribunal may make any order it considers just and equitable and, for such purposes, the tribunal shall substitute its order for that of the review officer.

Powers of
tribunal

(11) The registrar may appoint a provincial advisory committee to advise him in matters relating to the management of the property of corporations and the conduct of licensees.

Advisory
committee

(12) The provincial advisory committee shall consist of,

Membership
of
committee

(a) a chairman;

(b) three members who represent owners of units for residential purposes; and

- (c) three members nominated by the Association of Condominium Managers.

Terms of
office

(13) The members of the provincial advisory committee shall be appointed for terms of one, two or three years and, having served a term, shall not be reappointed for at least two years.

Vacancy

(14) When a vacancy occurs on the provincial advisory committee during a term of office, the registrar may fill the vacancy for the unexpired portion of the term.

6. Subsection 59 (1) of the said Act is amended by adding thereto the following clause:

- (sa) requiring licensees, or any class thereof, to be bonded in such form and terms and with such collateral security as are prescribed, and providing for the forfeiture of bonds and the disposition of the proceeds.

7. The said Act is further amended by adding thereto the following section:

Regulations

59a. Subject to the approval of the Lieutenant Governor in Council, the Association of Condominium Managers may make regulations setting standards for the management of the property of corporations, including standards for the conduct of condominium managers.

Commence-
ment

8. This Act comes into force on the day it receives Royal Assent.

Short title

9. The short title of this Act is the *Condominium Amendment Act, 1984*.

Bill 25

An Act to amend the Game and Fish Act

Mr. Philip

1st Reading April 2nd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The definitions of “body-gripping trap” and “leg-hold trap” are reworded to differentiate more clearly among the types of traps. A “body-gripping trap” does not include a “leg-hold trap” and neither type of trap includes a snare.

The definition of “trap” is expanded to include a pitfall.

SECTION 2. Subsection 2 (3) is amended to refer to proposed section 30a.

SECTION 3. Section 30 now reads as follows:

30.—(1) In this section, “animal” includes any domestic, fur-bearing or game animal.

(2) No person shall trap or attempt to trap any animal by means of a body-gripping trap or leg-hold trap.

(3) Subsection (2) does not apply,

(a) to a person who holds a licence to hunt or trap fur-bearing animals;

(b) to a farmer who uses a body-gripping trap or leg-hold trap on his own lands in defence or preservation of his property or in circumstances referred to in subsection 62 (7);

(c) to a person who uses a body-gripping trap or leg-hold trap designated by the Minister as a humane trap.

(4) The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating areas or municipalities in Ontario in which the prohibition set out in subsection (2) does not apply.

(5) The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating any body-gripping trap or leg-hold trap as a humane trap for the purpose of clause (3) (c).

The new section would prohibit the use of all traps (including body-gripping traps, leg-hold traps and snares), except designated unrestricted humane traps and specified traps permitted for use by farmers and trappers.

Subsections 30 (3) and (4). Farmers and trappers are permitted to use leg-hold traps and snares, but only under water. They are permitted to use padded leg-hold traps on land, but only for trapping wolf and fox, traps designated for use for wolf and fox, designated restricted humane traps (the quick-killing traps, including snares, intended for use only by experienced users, that the industry currently refers to as “humane traps”) and designated humane body-gripping traps.

Subsection 30 (5). Anyone may use a designated unrestricted humane trap (intended for use by inexperienced users without endangering children or pets).

Subsection 30 (6). The Minister is empowered to designate various types of traps, but is no longer empowered to exempt areas or municipalities from the prohibition in subsection 30 (2) (see existing subsection 30 (4) of the Act).

SECTION 4. *Subsection 30a (1).* A person who sets a live-holding trap (a category which may include designated unrestricted humane traps) must inspect it daily (in the parts of Ontario south of the C.N.R. line) or once every three days (in the parts of Ontario north of that line).

Subsection 30a (2). A mechanically unfit trap may cause unnecessary pain and suffering to the captured animal.

Subsections 30a (3) to (6). The possession and sale of operative traps are forbidden, except for farmers, trappers and dealers. The prohibition does not apply to designated unrestricted humane traps or to collectors with permits issued by the Minister.

Section 30b. A trap exchange program would permit old traps to be modified and updated, and would provide a means of introducing new appropriate traps.

SECTION 5. Subsection 1 (6) of Ontario Regulation 673/82 reads as follows:

- (6) No person shall set a leg-hold trap for beaver, otter or mink unless the trap is,*
 - (a) set under ice; or*
 - (b) attached to,*
 - (i) a sliding lock on a drowning wire or a device that will immediately submerge the captured animal in water and prevent it from resurfacing, or*
 - (ii) a heavy object that will dislodge immediately upon springing of the trap and will submerge the captured animal in water and prevent it from resurfacing; or*
 - (c) sufficiently heavy and set in such a manner, where the trap is set for mink, to submerge the captured mink in water immediately upon springing of the trap and prevent it from resurfacing.*

The same subject-matter is dealt with more extensively by proposed subsection 30 (3) (section 3 of the Bill) which would apply to muskrat as well as to other aquatic species.

Bill 25

1984

An Act to amend the Game and Fish Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Paragraphs 3, 18 and 35 of section 1 of the *Game and Fish Act*, being chapter 182 of the Revised Statutes of Ontario, 1980, are repealed and the following substituted therefor:

3. “body-gripping trap” means a trap designed to capture an animal by seizing and holding it by any part of its body, except the leg or foot, but does not include a snare or a trap designed to capture a mouse or rat;

.

18. “leg-hold trap” means a trap designed to capture an animal by seizing and holding it by the leg or foot, but does not include a snare or a trap designed to capture a mouse or rat;

.

35. “trap” means a spring trap, body-gripping trap, leg-hold trap, gin, pitfall, deadfall, snare, box or net used to capture an animal, but does not include a snare or a trap designed to capture a mouse or a rat, and “trapping” has a corresponding meaning.

2. Subsection 2 (3) of the said Act is repealed and the following substituted therefor:

(3) Notwithstanding subsection (1), this Act applies to domestic animals and to persons referred to in clause (1) (b) in respect of the restrictions in sections 30 and 30a on the use of traps. ^{Idem}

3. Section 30 of the said Act is repealed and the following substituted therefor:

Interpretation **30.**—(1) In this section and in section 30a, “animal” includes a domestic, fur-bearing or game animal.

Prohibition (2) No person shall trap or attempt to trap an animal.

Exception:
licensed
trapper (3) Subsection (2) does not apply to the holder of a licence to hunt or trap fur-bearing animals who uses,

(a) a body-gripping trap designated by the Minister as a humane body-gripping trap under clause (6) (a);

(b) a leg-hold trap or a snare that is,

(i) set under ice,

(ii) equipped with a sliding lock on a drowning wire or a device that will, immediately upon springing of the trap, submerge the captured animal completely and prevent every part of it from resurfacing, or

(iii) attached to a heavy object that will, immediately upon springing of the trap, dislodge so as to submerge the captured animal completely and prevent every part of it from resurfacing;

(c) a leg-hold trap that is set for mink or muskrat and is sufficiently heavy and set in such a manner that it will, immediately upon springing of the trap, submerge the captured animal completely and prevent every part of it from resurfacing;

(d) a padded leg-hold trap that is set for wolf or fox, or a trap that is designated by the Minister under clause (6) (b) as a trap for wolf or fox; or

(e) a trap designated by the Minister as a restricted humane trap under clause (6) (c).

Exception:
farmer (4) Subsection (2) does not apply to a farmer who uses a trap described in subsection (3), in the manner described in that subsection, on his own lands in defence or preservation of his property or in circumstances referred to in subsection 62 (7).

Exception:
unrestricted
humane trap (5) Subsection (2) does not apply to a person who uses a trap designated by the Minister under clause (6) (d) as an unrestricted humane trap.

(6) The Minister may, with the approval of the Lieutenant Governor in Council, make an order designating, Minister may designate traps

- (a) a body-gripping trap as a humane body-gripping trap for the purpose of clause (3) (a);
- (b) a trap, other than an unmodified steel-jawed leg-hold trap, as a trap for wolf or fox, for the purpose of clause (3) (d);
- (c) a trap as a restricted humane trap for the purpose of clause (3) (e); and
- (d) a trap as an unrestricted humane trap for the purposes of subsection (5) and subsection 30a (5).

4. The said Act is amended by adding thereto the following sections:

30a.—(1) Every person who sets a trap capable of holding or set to hold an animal alive shall tend the trap, Regular inspections of live-holding traps

- (a) where it is set in the part of Ontario south of the northernmost east-west line of the Canadian National Railway, at least once in every twenty-four hour period; and
 - (b) where it is set in the part of Ontario north of the northernmost east-west line of the Canadian National Railway, at least once in every seventy-two hour period.
- (2) No person shall set a trap that is mechanically unfit. Fitness
- (3) No person shall purchase or possess a trap, except, Prohibition
- (a) a farmer;
 - (b) the holder of a licence to hunt or trap fur-bearing animals;
 - (c) a dealer in traps; or
 - (d) a person to whom the Minister has issued a collector's permit under subsection (6).
- (4) No person shall give possession of or sell a trap to any person except a person referred to in subsection (3). Idem
- (5) Subsections (3) and (4) do not apply to, Exceptions: inoperative trap, unrestricted humane trap

- (a) a trap that has been made inoperative; or
- (b) a trap designated by the Minister as an unrestricted humane trap under clause 30 (6) (d).

Collector's
permit

(6) The Minister may issue a collector's permit to a person permitting the person to possess operative traps, and may impose terms and conditions on the permit.

Trap
exchange
program

30b. The Minister may establish and maintain a trap exchange program permitting farmers and holders of licences to hunt or trap fur-bearing animals to exchange leg-hold traps and unmodified Conibear traps for traps that are designated by the Minister under subsection 30 (6).

5. Subsection 1 (6) of Ontario Regulation 673/82, made under the said Act, shall be deemed to be revoked.

Commence-
ment

6. This Act comes into force on the 1st day of October, 1984.

Short title

7. The short title of this Act is the *Game and Fish Amendment Act, 1984*.

Bill 26

An Act to amend the Highway Traffic Act

Mr. Peterson

1st Reading April 3rd, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

Subsection 109 (12) of the *Highway Traffic Act* now reads as follows:

(12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to,

(a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call; or

(b) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

The amendment would permit ambulance drivers to exceed prescribed speed limits in situations of urgency.

Bill 26

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 109 (12) of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (12) The speed limits prescribed under this section or any regulation or by-law passed under this section do not apply to, Emergency and police vehicles
- (a) a motor vehicle of a municipal fire department while proceeding to a fire or responding to, but not returning from, a fire alarm or other emergency call;
 - (b) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation; or
 - (c) a motor vehicle while used by a person in the lawful performance of his duties as a police officer.

2. This Act comes into force on the day it receives Royal Assent. Commencement

3. The short title of this Act is the *Highway Traffic Amendment Act, 1984*. Short title

Bill 27

An Act to amend the Healing Arts Radiation Protection Act

The Hon. K. C. Norton
Minister of Health

1st Reading April 5th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The amendment restricts the use of computerized axial tomography (C.A.T.) scanners to hospitals or other facilities prescribed by the regulations.

Bill 27

1984

An Act to amend the Healing Arts Radiation Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Healing Arts Radiation Protection Act*, being chapter 195 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a.—(1) In this section, “hospital” has the same meaning as in the *Public Hospitals Act*.

Interpretation
R.S.O.1980,
c. 410

(2) No person shall install or operate or cause or permit the installation or operation of a computerized axial tomography scanner except,

C.A.T.
scanners

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

prescribed by the regulations.

(3) No person shall install or operate or cause or permit the installation or operation of more computerized axial tomography scanners, ^{Idem}

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

than the number of computerized axial tomography scanners prescribed by the regulations in respect of the hospital or other facility or the class of hospitals or facilities of which the hospital or facility is a member.

(2) Section 22a of the said Act, as enacted by subsection (1), does not apply in respect of a computerized axial tomography scanner that has been installed before the coming into force of this section.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Healing Arts Radiation Protection Amendment Act, 1984*.

Bill 27

4TH SESSION, 32ND LEGISLATURE, ONTARIO

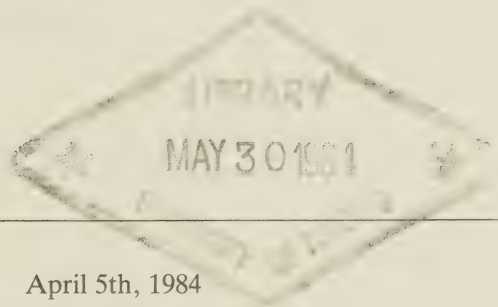
33 ELIZABETH II, 1984

Bill 27

(Chapter 9
Statutes of Ontario, 1984)

An Act to amend the Healing Arts Radiation Protection Act

The Hon. K. C. Norton
Minister of Health



<i>1st Reading</i>	April 5th, 1984
<i>2nd Reading</i>	April 26th, 1984
<i>3rd Reading</i>	May 1st, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 27

1984

An Act to amend the Healing Arts Radiation Protection Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) The *Healing Arts Radiation Protection Act*, being chapter 195 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a.—(1) In this section, “hospital” has the same meaning as in the *Public Hospitals Act*.

Interpretation
R.S.O.1980,
c. 410

(2) No person shall install or operate or cause or permit the installation or operation of a computerized axial tomography scanner except,

C.A.T.
scanners

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

prescribed by the regulations.

(3) No person shall install or operate or cause or permit the installation or operation of more computerized axial tomography scanners,

Idem

- (a) in a hospital or other facility;
- (b) in a hospital within a class of hospitals; or
- (c) in a facility within a class of facilities,

than the number of computerized axial tomography scanners prescribed by the regulations in respect of the hospital or other facility or the class of hospitals or facilities of which the hospital or facility is a member.

(2) Section 22a of the said Act, as enacted by subsection (1), does not apply in respect of a computerized axial tomography scanner that has been installed before the coming into force of this section.

Commence-
ment

2. This Act comes into force on the day it receives Royal Assent.

Short title

3. The short title of this Act is the *Healing Arts Radiation Protection Amendment Act, 1984*.

Bill 28

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea

Minister of Community and Social Services

1st Reading April 5th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill is required for the implementation in Ontario of the *Young Offenders Act* (Canada), whose proclamation date is April 2, 1984.

SECTION 1. Self-explanatory.

SECTION 2. The Minister may appoint provincial directors (a term used in the *Young Offenders Act* (Canada)), probation officers and program supervisors.

SECTION 3. The Minister may provide services and programs under this Act directly or through agreements with agencies. Existing observation and detention homes and training schools, and their funding, are continued.

SECTION 4. Program supervisors have general powers of inspection in connection with services and programs under this Act. It is an offence to obstruct an inspector or to give the inspector false information about services or programs under this Act. The maximum fine is \$2,000.

SECTION 5. Self-explanatory.

SECTION 6. Young persons sentenced to terms of imprisonment under the *Provincial Offences Act* will be dealt with in the same way as young persons sentenced to open custody under the *Young Offenders Act* (Canada).

SECTION 7. This section deals with the apprehension of young persons who are absent without permission from places of custody or detention where they are being held under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*.

SECTION 8. Self-explanatory.

SECTION 9. Amendments to the *Child Welfare Act*.

Subsection 1. The definition of "place of safety" is brought into line with the terminology of the *Young Offenders Act* (Canada).

Subsection 2. Proposed subsections 21 (3), (3a) and (3b) set out police powers and procedures in respect of children under twelve, who may not be convicted of offences under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*. Proposed subsection (3c) deals with the apprehension of children who are absent without permission from places of safety where they are being detained under the *Child Welfare Act*.

Subsection 3. References to observation and detention homes and training schools are replaced by references to places of custody or detention under the *Young Offenders Act* (Canada).

Subsections 4 and 5. The repealed subsections refer to the *Juvenile Delinquents Act* (Canada).

SECTION 10. Self-explanatory.

SECTION 11. The repealed provisions relate to observation and detention homes and probation officers.

SECTION 12. Self-explanatory.

SECTION 13. The repealed section deals with probation officers.

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) “Minister” means the Minister of Community and Social Services;
- (c) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (d) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (e) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada);
- (f) “prescribed” means prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “services and programs” means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) “young person” means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada), and
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject. Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer. Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations. Remuneration and expenses
R.S.O. 1980, c. 418

3.—(1) The Minister may, Services and programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations. 29-30-31, Eliz.II, c. 110 (Can.)
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations. Observation and detention homes and training schools continued
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records. Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor. Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports
and
information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young
persons in
open custody
R.S.O. 1980,
c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31,
Eliz.II,
c. 110 (Can.)

Apprehension
of young
person absent
from place of
temporary
detention
R.S.O. 1980,
c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority
to enter,
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

29-30-31,
Eliz. II,
c. 110 (Can.)

- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz. II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child's parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension
of child
absent from
place of
temporary
detention
29-30-31,
Eliz. II,
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984.

Transition

R.S.C. 1970,
c. J-3

10. The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home.

Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated.

Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Commence-
ment

15. The short title of this Act is the *Young Offenders Implementation Act, 1984*.

Short title

Bill 28

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea
Minister of Community and Social Services

<i>1st Reading</i>	April 5th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	
<i>Royal Assent</i>	

(Reprinted as amended by the Social Development Committee)

EXPLANATORY NOTES

The Bill is required for the implementation in Ontario of the *Young Offenders Act* (Canada), whose proclamation date is April 2, 1984.

SECTION 1. Self-explanatory.

SECTION 2. The Minister may appoint provincial directors (a term used in the *Young Offenders Act* (Canada)), probation officers and program supervisors.

SECTION 3. The Minister may provide services and programs under this Act directly or through agreements with agencies. Existing observation and detention homes and training schools, and their funding, are continued.

SECTION 4. Program supervisors have general powers of inspection in connection with services and programs under this Act. It is an offence to obstruct an inspector or to give the inspector false information about services or programs under this Act. The maximum fine is \$2,000.

SECTION 5. Self-explanatory.

SECTION 6. Young persons sentenced to terms of imprisonment under the *Provincial Offences Act* will be dealt with in the same way as young persons sentenced to open custody under the *Young Offenders Act* (Canada).

SECTION 7. This section deals with the apprehension of young persons who are absent without permission from places of custody or detention where they are being held under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*.

SECTION 8. Self-explanatory.

SECTION 9. Amendments to the *Child Welfare Act*.

Subsection 1. The definition of "place of safety" is brought into line with the terminology of the *Young Offenders Act* (Canada).

Subsection 2. Proposed subsections 21 (3), (3a) and (3b) set out police powers and procedures in respect of children under twelve, who may not be convicted of offences under the *Young Offenders Act* (Canada) or the *Provincial Offences Act*. Proposed subsection (3c) deals with the apprehension of children who are absent without permission from places of safety where they are being detained under the *Child Welfare Act*.

Subsection 3. References to observation and detention homes and training schools are replaced by references to places of custody or detention under the *Young Offenders Act* (Canada).

Subsections 4 and 5. The repealed subsections refer to the *Juvenile Delinquents Act* (Canada).

SECTION 10. Self-explanatory.

SECTION 11. The repealed provisions relate to observation and detention homes and probation officers.

SECTION 12. Self-explanatory.

SECTION 13. The repealed section deals with probation officers.

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) “Minister” means the Minister of Community and Social Services;
- (c) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (d) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (e) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada);
- (f) “prescribed” means prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “services and programs” means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) “young person” means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada),
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

Limitations, etc., on appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer.

Probation officer has powers of peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations.

Remuneration and expenses
R.S.O. 1980, c. 418

3.—(1) The Minister may,

Services and programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations.

29-30-31, Eliz.II, c. 110 (Can.)
R.S.O. 1980, c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations.

Observation and detention homes and training schools continued
R.S.O. 1980, cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records.

Powers of program supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor.

Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse

Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports
and
information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young
persons in
open custody
R.S.O. 1980,
c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31,
Eliz.II,
c. 110 (Can.)

Apprehension
of young
person absent
from place of
temporary
detention
R.S.O. 1980,
c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority
to enter,
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

29-30-31,
Eliz. II,
c. 110 (Can.)

- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz. II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child's parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension
of child
absent from
place of
temporary
detention
29-30-31,
Eliz. II,
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984.

Transition

R.S.C. 1970,
c. J-3

10. The *Children's Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

▼
(2) Subsections 204 (1), (2) and (3) of the *Courts of Justice Act*, 1984, being chapter 11, are repealed and the following substituted therefor:

(1) The *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed. ▲

(3) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home.

Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated.

Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Short title

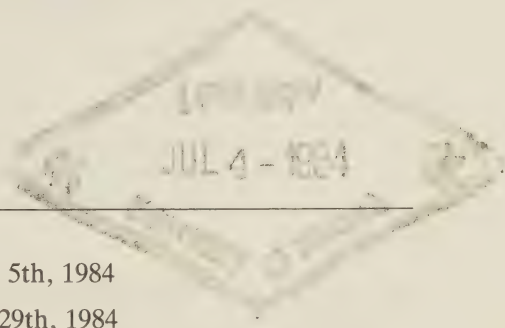
15. The short title of this Act is the *Young Offenders Implementation Act, 1984*.

Bill 28

*(Chapter 19
Statutes of Ontario, 1984)*

An Act to provide for the Implementation of the Young Offenders Act (Canada)

The Hon. Frank Drea
Minister of Community and Social Services



<i>1st Reading</i>	April 5th, 1984
<i>2nd Reading</i>	May 29th, 1984
<i>3rd Reading</i>	June 13th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 28

1984

**An Act to provide for the
Implementation of the
Young Offenders Act (Canada)**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “child” means a person who is or, in the absence of evidence to the contrary, appears to be under the age of twelve years;
- (b) “Minister” means the Minister of Community and Social Services;
- (c) “place of open custody” means a place or facility designated as a place of open custody under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (d) “place of secure custody” means a place or facility designated for the secure containment or restraint of young persons under subsection 24 (1) of the *Young Offenders Act* (Canada);
- (e) “place of temporary detention” means a place or facility designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada);
- (f) “prescribed” means prescribed by the regulations;
- (g) “regulations” means the regulations made under this Act;
- (h) “services and programs” means,
 - (i) prevention programs,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (ii) pre-trial detention and supervision programs,
 - (iii) open and secure custody programs,
 - (iv) probation services,
 - (v) programs for the administration and supervision of dispositions, and
 - (vi) other related services and programs;
- (i) “young person” means a person who is, or, in the absence of evidence to the contrary, appears to be,
- (i) twelve years of age, or more, but
 - (ii) under sixteen years of age,

and includes a person sixteen years of age or more charged with having committed an offence while he or she was twelve years of age or more but under sixteen years of age.

Appointments
by Minister

2.—(1) The Minister may appoint any person as,

- (a) a provincial director, to perform any or all of the duties and functions of a provincial director,
 - (i) under the *Young Offenders Act* (Canada), and
 - (ii) under the regulations;
- (b) a probation officer, to perform any or all of the duties and functions,
 - (i) of a youth worker under the *Young Offenders Act* (Canada),
 - (ii) of a probation officer for the purposes of the *Provincial Offences Act*, and
 - (iii) of a probation officer under the regulations; and
- (c) a program supervisor, to supervise services and programs provided under subsection 3 (1) and perform any or all of the prescribed duties and functions.

29-30-31,
Eliz. II,
c. 110 (Can.)

R.S.O. 1980,
c. 400

(2) The Minister may set out in an appointment made under subsection (1) any conditions or limitations to which it is subject.

Limitations,
etc., on
appointments

(3) While performing his or her duties and functions, a probation officer appointed under clause (1) (b) has the powers of a peace officer.

Probation
officer has
powers of
peace officer

(4) The remuneration and expenses of a person appointed under subsection (1) who is not a public servant under the *Public Service Act* shall be fixed by the Minister and shall be paid out of legislative appropriations.

Remuneration
and expenses

R.S.O. 1980,
c. 418

3.—(1) The Minister may,

Services
and
programs

(a) establish, operate and maintain services and programs; and

(b) make agreements with persons for the provision of services and programs,

for or on behalf of young persons for the purposes of the *Young Offenders Act* (Canada) and the *Provincial Offences Act*, and may fund those services and programs out of legislative appropriations.

29-30-31,
Eliz. II,
c. 110 (Can.)
R.S.O. 1980,
c. 400

(2) An observation and detention home under the *Provincial Courts Act* that is in existence on the 2nd day of April, 1984 and a training school under the *Training Schools Act* that is in existence on that day shall be deemed to be operated under subsection (1), and the Minister may continue to fund those observation and detention homes and training schools out of legislative appropriations.

Observation
and
detention
homes and
training
schools
continued
R.S.O. 1980,
cc. 398, 508

4.—(1) A program supervisor may, at all reasonable times, upon producing proper identification, enter premises where services or programs are provided under subsection 3 (1), inspect the facilities, the services or programs provided, the books of account and the records relating to the services or programs, and make copies of those books and records.

Powers
of program
supervisor

(2) No person shall hinder, obstruct or attempt to hinder or obstruct a program supervisor in the performance of the program supervisor's duties or give false information about services or programs provided under subsection 3 (1) to a program supervisor.

Offence

(3) No person in charge of a service or program provided under subsection 3 (1) or in charge of premises where a service or program is provided under subsection 3 (1) shall refuse

Idem

to give a program supervisor access to the books and records referred to in subsection (1).

Idem

(4) A person who knowingly contravenes subsection (2) or (3), and a director, officer or employee of a corporation who authorizes, permits or concurs in such a contravention by the corporation, is guilty of an offence and is liable upon conviction to a fine of not more than \$2,000.

Reports
and
information

5. A person in charge of a service or program provided under subsection 3 (1), a person in charge of a place of temporary detention, open custody or secure custody, and a probation officer,

- (a) shall make the prescribed reports and furnish the prescribed information to the Minister, in the prescribed form and at the prescribed intervals; and
- (b) shall make a report to the Minister whenever the Minister requests it.

Young
persons in
open custody
R.S.O. 1980,
c. 400

6. Where a young person is sentenced to a term of imprisonment for breach of probation under clause 75 (d) of the *Provincial Offences Act*, to be served in open custody as set out in section 91k of that Act,

- (a) the young person shall be held in a place of open custody specified by a provincial director; and
- (b) the provisions of section 35 (temporary release) of the *Young Offenders Act* (Canada) apply with necessary modifications.

29-30-31,
Eliz.II,
c. 110 (Can.)

Apprehension
of young
person absent
from place of
temporary
detention
R.S.O. 1980,
c. 400

7.—(1) A peace officer, the person in charge of a place of temporary detention or that person's delegate, who believes on reasonable and probable grounds that a young person detained under the *Young Offenders Act* (Canada) or the *Provincial Offences Act* in a place of temporary detention,

- (a) has left the place without the consent of the person in charge; and
- (b) fails or refuses to return there,

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;

- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of temporary detention.

(2) A peace officer, the person in charge of a place of open custody or that person's delegate, who believes on reasonable and probable grounds that a young person held in a place of open custody as described in section 6,

Idem:
place of
open custody

- (a) has left the place without the consent of the person in charge and fails or refuses to return there; or
- (b) fails or refuses to return to the place of open custody upon completion of a period of temporary release under clause 6 (b),

may apprehend the young person with or without a warrant and,

- (c) take the young person to a place of temporary detention to be detained until he or she can be returned;
- (d) arrange for the young person to be returned; or
- (e) return the young person,

to the first-mentioned place of open custody.

(3) A young person who is detained in a place of temporary detention under this section shall be returned to the place from which he or she is absent, as soon as possible, but in any event within forty-eight hours after being detained.

Young
person to
be returned
within forty-
eight hours

(4) A justice of the peace who is satisfied on the basis of a sworn information that there are reasonable and probable grounds to believe that a young person held in a place of temporary detention or open custody,

Warrant to
apprehend
young
person

- (a) has left the place without the consent of the person in charge, and fails or refuses to return there; or
- (b) fails or refuses to return to a place of open custody upon completion of a period of temporary release under clause 6 (b),

may issue a warrant authorizing a peace officer, the person in charge of the place of temporary detention or open custody or that person's delegate to apprehend the young person.

Authority
to enter,
etc.

(5) A warrant issued under subsection (4) authorizes a person to whom it is directed to enter any premises where he or she reasonably believes the young person to be, by force if necessary, and to search for and remove the young person.

Regulations

8. The Lieutenant Governor in Council may make regulations,

29-30-31,
Eliz. II,
c. 110 (Can.)

- (a) governing the establishment, operation, maintenance, management and use of places of temporary detention, open custody and secure custody and other services and programs provided under subsection 3 (1);
- (b) governing the establishment and operation of and the accommodation, equipment and services to be provided in any premises or class of premises established, operated, maintained or designated for the purposes of the *Young Offenders Act* (Canada) or for providing services or programs under subsection 3 (1);
- (c) prescribing additional duties and functions of,
 - (i) probation officers,
 - (ii) program supervisors, and
 - (iii) provincial directors;
- (d) prescribing the qualifications of probation officers;
- (e) prescribing additional duties and functions of persons in charge of places of temporary detention, open custody and secure custody;
- (f) prescribing reports to be made and information to be furnished under section 5, their form and the intervals at which they are to be made or furnished;
- (g) governing the conduct, discipline, rights and privileges of young persons in places of temporary detention, open custody or secure custody or any class of them or in a service or program provided under subsection 3 (1);

- (h) prescribing procedures for the admission of young persons to and their discharge from places of temporary detention, open custody or secure custody or any class of them or premises in which a service or program is provided under subsection 3 (1);
- (i) prescribing classes of payment by way of provincial aid for the establishment, operation or maintenance of places of temporary detention, open custody or secure custody, the methods of determining the payments, the manner and time of making them, the terms and conditions of such payments and the circumstances under which such payments may be suspended or withheld or deductions may be made from them; and
- (j) respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this Act.

9.—(1) Clause 19 (1) (f) of the *Child Welfare Act*, being chapter 66 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (f) “place of safety” means a receiving home, foster home, hospital and such other place or class of places designated in writing by a Director, but does not include a place or facility designated as a place of secure custody under section 24 of the *Young Offenders Act* (Canada).

29-30-31,
Eliz.II,
c. 110 (Can.)

(2) Subsection 21 (3) of the said Act is repealed and the following substituted therefor:

(3) A police officer who has reasonable and probable grounds to believe that a child actually or apparently under twelve years of age has committed an act in respect of which a person twelve years of age or older could be found guilty of an offence may apprehend the child without a warrant and shall, on doing so,

Apprehension
of child
under twelve

- (a) as soon as practicable, return the child to the child’s parent or other person having charge of the child; or
- (b) where it is not possible to return the child to the parent or other person within a reasonable time, take the child to a place of safety to be detained there until the child can be returned to the parent or other person.

Notice to
parent, etc.

(3a) The person in charge of a place of safety in which a child is detained under subsection (3) shall make reasonable efforts to notify the child's parent or other person having charge of the child of the child's detention so that the child may be returned to the parent or other person.

Where child
not returned
to parent,
etc., within
twelve hours

(3b) Where a child detained in a place of safety under subsection (3) cannot be returned to the child's parent or other person having charge of the child within twelve hours of being taken to the place of safety, the child shall be deemed to have been apprehended under clause (1) (a) as being apparently in need of protection.

Apprehension
of child
absent from
place of
temporary
detention
29-30-31,
Eliz.II,
c. 110 (Can.)

(3c) Where a child is detained under this Act in a place of safety that has been designated as a place of temporary detention under subsection 7 (1) of the *Young Offenders Act* (Canada) and leaves the place without the consent of,

(a) the society having care, custody and control of the child; or

(b) the person in charge of the place of safety,

a peace officer, the person in charge of the place of safety or that person's delegate may apprehend the child without a warrant and,

(c) take the child to a place of safety to be detained until he or she can be returned;

(d) arrange for the child to be returned; or

(e) return the child,

to the first-mentioned place of safety.

Right of
entry

(3d) Where a person authorized under subsection (1), (2), (3) or (3c) has reasonable and probable grounds to believe that a child referred to in the relevant subsection is on any premises, the person may without a warrant enter the premises, if need be by force, and without a warrant search for and remove the child from the premises.

(3) Subsection 28 (12) of the said Act is amended by striking out "except an order placing the child in a training school established under the *Training Schools Act*, or placing the child in an observation and detention home established or designated under the *Provincial Courts Act* that has not been designated under this Act as a place of safety" in the 25th, 26th, 27th, 28th, 29th and 30th lines and inserting in lieu thereof "except

an order placing a child in a place or facility designated as a place of secure custody or as a place of open custody under section 24 of the *Young Offenders Act* (Canada), or in a place or facility that is designated under subsection 7 (1) of that Act as a place of temporary detention but is not a place of safety”.

(4) Subsections 30 (2) and (3) of the said Act are repealed.

(5) Despite subsection (4), subsection 30 (2) continues to apply to a child who was committed to a society under paragraph 20 (1) (h) of the *Juvenile Delinquents Act* (Canada) before the 2nd day of April, 1984.

Transition

R.S.C. 1970,
c. J-3

10. The *Children’s Probation Act*, being chapter 70 of the Revised Statutes of Ontario, 1980, is repealed.

11.—(1) Sections 27, 28, as amended by the Statutes of Ontario, 1982, chapter 22, section 2, sections 29, 30 and 31 and clauses 34 (1) (g), (h), (i), (j) and (k) of the *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, are repealed.

(2) Subsections 204 (1), (2) and (3) of the *Courts of Justice Act, 1984*, being chapter 11, are repealed and the following substituted therefor:

(1) The *Provincial Courts Act*, being chapter 398 of the Revised Statutes of Ontario, 1980, is repealed.

(3) Despite subsection (1), sections 28 and 29 of the said Act continue to apply to a child who has been admitted to an observation and detention home and has not been discharged on the 2nd day of April, 1984, until the child is discharged from the observation and detention home.

Transition

12.—(1) The *Training Schools Act*, being chapter 508 of the Revised Statutes of Ontario, 1980, is repealed.

(2) Despite subsection (1), the said Act continues to apply to a child who is a ward of the Crown under the said Act on the 2nd day of April, 1984, until the wardship expires or is terminated.

Transition

13. Section 19 of the *Unified Family Court Act*, being chapter 515 of the Revised Statutes of Ontario, 1980, is repealed.

Commence-
ment

14. This Act shall be deemed to have come into force on the 2nd day of April, 1984.

Short title

15. The short title of this Act is the *Young Offenders Implementation Act, 1984*.

*Government
Publications*

Bill 29

An Act to amend the Coroners Act

Mr. Wildman

1st Reading April 5th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would:

1. Require inquests into all accidental deaths in work places.
2. Extend standing at those inquests to the worker representatives on the joint health and safety committees of the affected work places and to trade union representatives.
3. Require the Ministry of Labour to deal, in its annual report, with verdicts given and recommendations made in those inquests and to advise persons who had standing of the action taken on the recommendations.

Bill 29

1984

An Act to amend the Coroners Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 10 (5) of the *Coroners Act*, being chapter 93 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(5) Where a worker dies as a result of an accident occurring in the course of his employment at a work place as defined in the *Occupational Health and Safety Act*, the person in charge of the work place shall immediately give notice of the death to a coroner and the coroner shall issue his warrant to hold an inquest upon the body.

Notice of
death
resulting
from accident
at work place
R.S.O.1980,
c. 321

2. Section 41 of the said Act is amended by adding thereto the following subsection:

(1a) Where an inquest is conducted into a death referred to in subsection 10 (5),

Idem,
work place
fatalities

(a) the members of the joint health and safety committee, if any, established under subsection 8 (2) of the *Occupational Health and Safety Act*, who represent workers; and

(b) a person chosen by each trade union, if any, representing the workers,

shall be deemed to be designated as persons with standing at the inquest.

3. Subsection 52 (1) of the said Act is repealed and the following substituted therefor:

(1) The coroner shall forthwith after an inquest return the verdict or finding, with the evidence where the Minister, Crown attorney or Chief Coroner has ordered it to be transcribed, to the Chief Coroner, and shall transmit a copy of the

Return
of verdict

verdict or finding and recommendations to the Crown attorney and to every person who had standing at the inquest.

Verdict and recommendations to be transmitted to Minister of Labour

(1a) Where an inquest is conducted into a death referred to in subsection 10 (5), the coroner shall forthwith after the inquest transmit a copy of the verdict or finding and recommendations to the Minister of Labour, who shall report,

- (a) the verdict or finding and the recommendations;
- (b) whether the recommendations were implemented or not, with reasons if they were not implemented; and
- (c) any action taken on the recommendations by the Ministry,

R.S.O. 1980, c. 284

in the next annual report made under section 7 of the *Ministry of Labour Act*.

Ministry's action, etc., to be reported to persons with standing
Commencement

(1b) Before the information referred to in clauses (1a) (a), (b) and (c) is published in the Ministry's annual report, the Minister shall ensure that a copy of the information is provided to every person who had standing at the inquest.

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Coroners Amendment Act, 1984*.

0/0

Government
Publication

Bill 30

An Act to amend the Compensation for Victims of Crime Act

Mr. Kennedy

1st Reading April 6th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The purpose of the Bill is to extend the eligibility for compensation under the *Compensation for Victims of Crime Act* to any person who has been convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed.

The circumstances under which such a person would be eligible for compensation are set out in the new subsection 5 (2). The person must have been convicted and sentenced to prison after having pleaded not guilty to the offence with which he was charged. Under the new subsection 6 (2), an application for compensation can be made when the decision quashing the conviction becomes final.

As set out in the new subsection 7 (3), the victim may receive compensation for expenses actually incurred and pecuniary losses resulting from the imprisonment and for legal expenses incurred in appealing the conviction.

In determining compensation, the Board, as set out in subsection 17 (2), must consider all of the circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Under the new subsection 19 (6), the Board may award a lump sum payment to the victim of up to \$15,000 for each year that the victim was imprisoned, to a maximum of \$60,000.

Other amendments contained in the Bill are complementary to the above-noted amendments.

Bill 30

1984

**An Act to amend the
Compensation for Victims of Crime Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (1) (g) of the *Compensation for Victims of Crime Act*, being chapter 82 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

- (g) “victim” means a person injured or killed in the circumstances set out in subsection 5 (1) or a person who is convicted of an offence and sentenced to a term of imprisonment and whose conviction is subsequently quashed in the circumstances set out in subsection 5 (2).

2. Section 5 of the said Act is amended by adding thereto the following subsection:

- (2) Where a person is charged in Ontario with an offence under a Statute of Canada or Ontario and, having pleaded not guilty, is convicted and sentenced to a term of imprisonment and the conviction is subsequently quashed, the Board, on application therefor, may make an order that it, in its discretion exercised in accordance with this Act, considers proper for the payment of compensation to the victim.

Compensation to imprisoned persons

3.—(1) Section 6 of the said Act is amended by inserting after “compensation” in the first line “under subsection 5 (1)”.

(2) The said section 6 is further amended by adding thereto the following subsections:

- (2) An application for compensation under subsection 5 (2) shall not be made until the date on which the decision or order quashing the conviction becomes final and shall be made within one year of that date.

Idem

Final
decision

(3) For the purposes of subsection (2), a decision or order quashing a conviction becomes final when the guilt or innocence of the victim has been finally determined and no further right of appeal or right to apply for leave to appeal remains.

4.—(1) Subsection 7 (1) of the said Act is amended by adding at the commencement thereof “In an application under subsection 5 (1)”.

(2) Section 7 of the said Act is amended by adding thereto the following subsection:

Idem

(3) In an application under subsection 5 (2), compensation may be awarded for,

- (a) expenses actually and reasonably incurred as a result of the victim's imprisonment;
- (b) pecuniary loss incurred by the victim as a result of the victim's imprisonment during the period of imprisonment; and
- (c) legal expenses actually and reasonably incurred in appealing the conviction.

5. Section 17 of the said Act is repealed and the following substituted therefor:

Considera-
tions of
Board

17.—(1) In determining whether to make an order for compensation under subsection 5 (1) and the amount thereof, the Board shall have regard to all relevant circumstances, including any behaviour of the victim that may have directly or indirectly contributed to his injury or death.

Idem

(2) In determining whether to make an order for compensation under subsection 5 (2) and the amount thereof, the Board shall have regard to all relevant circumstances surrounding the charge, conviction and quashing of the conviction, including the behaviour of the victim.

Idem

(3) The Board may, in its discretion, refuse to make an order for compensation under subsection 5 (1) where it is satisfied that the applicant has refused reasonable co-operation with, or failed to report promptly the offence to, a law enforcement agency.

Idem

(4) In assessing pecuniary loss, the Board shall take into consideration any benefit, compensation or indemnity payable to the applicant from any source.

6. Section 19 of the said Act is amended by adding thereto the following subsection:

(6) The amount awarded by the Board to be paid in respect of an application under subsection 5 (2) shall not exceed \$15,000 for each year that the victim was imprisoned and shall not exceed \$60,000 in total, and the amount awarded shall be paid in a lump sum.

Maximum awards for victim in application under s. 5 (2)

7. This Act comes into force on the day it receives Royal Assent.

Commence-ment

8. The short title of this Act is the *Compensation for Victims of Crime Amendment Act, 1984.*

Short title

Bill 31

An Act to establish Midwifery as a Self-governing Health Profession

Mr. Cooke

1st Reading April 6th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill is intended to establish midwifery as an independent, self-governing health profession along the lines of medicine and nursing.

Bill 31**1984**

**An Act to establish Midwifery
as a Self-governing Health Profession**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MIDWIFERY

67a.—(1) In this Part,

Interpretation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Midwives of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of midwifery issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of midwifery” means the supervision, care and counselling of women before, during and after pregnancy and labour, and includes,
 - (i) conducting normal deliveries independently,
 - (ii) caring for the newborn,
 - (iii) taking preventive measures,

- (iv) detecting abnormal conditions in mothers and the newborn,
 - (v) obtaining medical assistance,
 - (vi) taking emergency measures in the absence of medical assistance, and
 - (vii) providing counselling and education to the community concerning health, preparation for birth and parenthood, family planning and child care;
- (g) "prescribed" means prescribed by the regulations or by-laws made under this Part;
 - (h) "Registrar" means the Registrar of the College;
 - (i) "regulations" means the regulations made under this Part.

Health
discipline

(2) The practice of midwifery is a health discipline to which this Part applies.

College of
Midwives
established

67b.—(1) The College of Midwives of Ontario is established as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of midwifery and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of midwifery;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

67c.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership in the College

(2) A member may resign his or her membership by filing a written resignation with the Registrar and the member's licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct while a member. Resignation of membership

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct as a member. Cancellation for default of fees

67d.—(1) The Council of the College is continued and shall be the governing body and board of directors of the College and shall manage and administer its affairs. Council of the College

(2) The Council shall be composed of, Composition of Council

- (a) not fewer than eighteen and not more than twenty-five persons who are members and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than ten persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

(3) The persons appointed under clause (2) (b) shall be paid, out of moneys appropriated therefor by the Legislature, such expenses and remuneration as is determined by the Lieutenant Governor in Council. Remuneration of lay members

(4) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of the person's appointment, and a person whose appointment expires is eligible for reappointment. Expiration of appointment

Qualifica-
tions to
vote:
members

(5) Every member who is,

- (a) resident in Ontario;
- (b) licensed to practise midwifery; and
- (c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

President
and Vice-
President

(6) The Council shall elect annually a President and Vice-President from among its members.

Registrar
and
officers

(7) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Quorum

(8) A majority of the members of the Council constitutes a quorum.

Powers of
Minister

67e. In addition to the powers and duties conferred under Part I, the Minister may,

- (a) review the activities of the Council;
- (b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;
- (c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

67f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

- (a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;
- (b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

- (c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;
- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) requiring every member to file with the Registrar annually a plan for consultation with physicians licensed under Part III and for emergency care of the member's patients by a physician or physicians, and providing that a member's licence may be suspended for failure to file such a plan annually;
- (i) governing the designation of life members of the College and prescribing their rights and privileges;
- (j) prohibiting the practice of midwifery where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters;

- (o) requiring and providing for the inspection and examination of books, accounts, reports and records of members in connection with their practice;
- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (s) prescribing forms and providing for their use;
- (t) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

By-laws

67g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;

- (g) respecting the calling, holding and conducting of meetings of the membership of the College;
- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of

an annual assessment and provision for representatives at meetings;

- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Signing
by-law and
resolutions

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Licence to
practise

67h.—(1) No person shall engage in the practice of midwifery, except in the provision of counselling and education referred to in subclause 67a (1) (f) (vii), or hold himself or herself out as engaging in the practice of midwifery, unless the person is licensed under this Part or under Part III.

Proof of
practice

(2) For the purposes of this section, proof of the performance of one act in the practice of midwifery on one occasion is sufficient to establish engaging in the practice of midwifery.

Conflict
with other
health
discipline

(3) A member or person authorized by the regulations may engage in the practice of midwifery notwithstanding that any part of that practice is included in the practice of another health discipline.

Establish-
ment of
committees

67i.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee; and
- (c) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in

office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

67j.—(1) The Executive Committee shall be composed of, Executive Committee

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

67k.—(1) The Registration Committee shall be composed of, Registration Committee

- (a) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council; and
- (b) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

67l.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he or she proposes to refuse or to which he or she considers terms, conditions or limitations should be attached. Issuance of licences

(2) The Registration Committee, Powers and duties of Registration Committee

- (a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and
- (b) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of
qualifica-
tions

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on the member's licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers
of
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise midwifery, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Discipline
Committee

67m.—(1) The Discipline Committee shall be composed of ten members of the Council, four of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition
of panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum
and votes

(4) Three members of a panel assigned under subsection (3), one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding

at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Where a panel of the Discipline Committee commences a hearing and the member of the panel who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Disability
of lay
member

67n.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, and take such action as it considers appropriate, including proceeding under clause (b) as if the complaint were an allegation of professional misconduct or incompetence;
- (b) hear and determine allegations of professional misconduct or incompetence against members,
 - (i) when so directed by the Council or Executive Committee; and
 - (ii) when the Discipline Committee considers it appropriate to deal with a complaint under this clause as if the complaint were an allegation of professional misconduct or incompetence;
- (c) hear and determine matters referred to it under section 67p;
- (d) hold hearings under section 67o; and
- (e) perform such other duties as are assigned to it by the Council.

(2) No action shall be taken by the Committee under clause (1) (a) unless, Idem

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he or she may wish to make concerning the matter; and

- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(3) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional
misconduct

(4) A member may be found guilty of professional misconduct by the Committee if,

- (a) he or she has been found guilty of an offence relevant to suitability to practise, upon proof of the conviction; or
- (b) he or she has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(5) The Discipline Committee may find a member to be incompetent if in its opinion the member has displayed in the professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates the member is unfit to continue in practice.

Powers of
Discipline
Committee

(6) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;

- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;
- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion thereof as the Discipline Committee fixes. Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on
appeal for
incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on
appeal for
professional
misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of
decision of
Discipline
Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same Continuation
on expiry of
Committee
membership

manner as if the term of office had not expired or been terminated.

Interpretation **670.**—(1) In this section,

- (a) “board of inquiry” means a board of inquiry appointed by the Executive Committee under subsection (2);
- (b) “incapacitated member” means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he or she no longer be permitted to practise or that the member’s practice be restricted.

Reference
to board of
inquiry

(2) Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination, the board may order that the member’s licence be suspended until the member complies.

Hearing by
Discipline
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Discipline Committee to hold a hearing and may suspend the member’s licence until the determination of the question of the member’s capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Discipline Committee are parties to a proceeding under this section.

Medical
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his or her case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing

the medical facts, findings, conclusions and treatment, to be signed by the practitioner and served upon the other parties to the proceeding,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Discipline Committee shall, after the hearing,

Powers of
Discipline
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
 - (i) revoke the member's licence,
 - (ii) suspend the member's licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply with necessary modifications to proceedings of the Discipline Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

67p.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension.

Restoration
of licence

Reference to
Discipline
Committee

(2) The Registrar shall refer the application to the Discipline Committee, which shall hold a hearing respecting and decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation
of members

67q.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is

reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admis-
sibility
of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he or she considers appropriate.

Report of
Registrar

67r.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 67q, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 67q and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or

(b) to his or her counsel; or

(c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining
orders

67s.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Penalties

67t.—(1) Every person who contravenes section 67h is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
use of
titles

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part or Part III who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he or she is licensed or registered under this Part or is recognized by law or otherwise as a midwife, or who assumes, uses or employs the description or title “midwife” or advertises or holds himself or herself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 67t in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Health Disciplines Amendment Act, 1984*.

Bill 32

An Act to provide for a Basic Residential Power Rate Applicable to the Essential Energy Needs of Residential Households in Ontario

Mr. Sargent

1st Reading April 10th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to provide for the establishment of a basic residential rate for electrical power usage by residential households in Ontario. The basic residential rate is applied to the amount of electrical power required by a typical residential household to fulfil minimum essential energy needs. The proposed amendments to the *Ontario Energy Board Act* require the Board to determine those functions that constitute the minimum essential energy needs of a residential household in Ontario. Each municipal corporation that distributes electrical power must establish a basic residential rate on the basis of the electrical power demand required in its service area to fulfil the minimum energy needs. The Bill sets a maximum level for the basic residential rate and stipulates that the basic residential rate must be the lowest rate for electrical power usage charged by the corporation.

Bill 32

1984

**An Act to provide for a Basic Residential
Power Rate Applicable to the Essential Energy
Needs of Residential Households in Ontario**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

PART I

THE ONTARIO ENERGY BOARD ACT

1. The *Ontario Energy Board Act*, being chapter 332 of the
Revised Statutes of Ontario, 1980, is amended by adding
thereto the following section:

37a.—(1) The Board shall examine into and determine
the minimum essential electrical needs of residents of Ontario
and, on or before the 1st day of January, 1985, the Board
shall make a report to the Minister listing the functions that
constitute the minimum essential electrical needs of a typical
residential household in Ontario.

Minimum
essential
electrical
needs

(2) Upon determination of the minimum essential electrical
needs referred to in subsection (1), every municipal electric
utility commission and every municipal corporation that dis-
tributes electrical power in Ontario shall determine the basic
demand for electrical energy required to fulfil the minimum
essential electrical needs of a typical residential household
located in the area to which it distributes electrical power.

Basic
demand for
electrical
power

(3) Every commission and corporation that makes a deter-
mination under subsection (2) shall report the determination
to the Board and the Board may review and alter the determi-
nation where the Board considers it proper.

Report to
Board

PART II

THE POWER CORPORATION ACT

2. The *Power Corporation Act*, being chapter 384 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

Basic
residential
rate

95b.—(1) Notwithstanding section 95, any municipal corporation that charges a rate for the distribution of electrical power shall establish a basic residential rate for residential households in the corporation's service area and the basic residential rate shall be applied to that amount of electrical power demand that is equal to the basic demand for electrical energy as determined under section 37a of the *Ontario Energy Board Act*.

R.S.O. 1980,
c. 332

Maximum
rate

(2) The basic residential rate referred to in subsection (1) shall not exceed the residential rate chargeable immediately prior to the 1st day of January, 1975, plus 50 per cent of any rate increase from the 1st day of January, 1975, to the 1st day of January, 1984.

Basic
residential
rate to be
lowest rate

(3) The basic residential rate charged by a municipal corporation shall be the lowest rate charged by the corporation to any of its customers and a corporation shall not, by means of a discount or otherwise, supply electrical power to a customer at a cost lower than the cost incurred by a person paying the basic residential rate.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Lifeline Act, 1984*.

Bill 33

**An Act to prevent unjust enrichment
through the Financial Exploitation of Crime**

Mr. Renwick

1st Reading April 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill makes moneys earned by accused criminals from the sale of their memoirs payable to the Criminal Injuries Compensation Board, which uses the funds received in each case to satisfy judgments obtained by victims of the crime.

Bill 33

1984

An Act to prevent unjust enrichment through the Financial Exploitation of Crime

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “Board” means the Criminal Injuries Compensation Board established under the *Compensation for Victims of Crime Act*; R.S.O. 1980,
c. 82
- (b) “broadcast” means information transmitted by cables, wires, fibre-optic linkages, laser beams or any form of wireless radioelectric communication employing Hertzian waves;
- (c) “person accused or convicted of a crime” includes,
 - (i) a person who has been charged with a crime,
 - (ii) a person who has been convicted of a crime, and
 - (iii) a person who has admitted the commission of a crime for which the person has not been prosecuted;
- (d) “victim” means a person who suffers injury, damage or pecuniary loss as a direct result of a crime.

2.—(1) Every person who makes an agreement with a person accused or convicted of a crime, or with the person’s agent or assignee, with respect to a book, magazine or newspaper article, broadcast, tape recording, phonograph recording, video recording, live presentation or other representation based upon or concerning the crime shall,

Payments
to Board

- (a) provide the Board with a copy of the contract; and

- (b) pay to the Board any moneys which would, under the contract, be payable to the person accused or convicted of the crime, his agent or nominee.

List to be
public

(2) The Board shall maintain a complete list of all persons in respect of whom it receives moneys under section 2 and shall make the list available to the public upon request.

Board to
hold funds

3.—(1) The Board shall hold all moneys received under section 2 in a special account, which may be an interest-bearing account, shall keep full records as to their source and disbursement and shall deal with the moneys in accordance with this Act.

Interest

(2) Interest earned on moneys received under section 2 forms part of the moneys to be dealt with by the Board in accordance with this Act.

Notice to
victims

4.—(1) Where the Board first receives moneys under section 2 in respect of a particular crime, it shall publish, in a newspaper circulated in the community where the crime was committed or alleged to have been committed, at least once every week for four weeks, a notice advising victims of the crime that it holds the moneys and of their rights under this Act.

Idem

(2) The Board may give such further notice to victims as it considers advisable.

Victim
may sue
R.S.O. 1980,
cc. 152, 240

5.—(1) Despite subsection 60 (4) of the *Family Law Reform Act* and section 45 of the *Limitations Act*, a victim may bring an action for the recovery of damages against the person accused or convicted of the crime within five years after the date on which the Board first received moneys under section 2 in respect of the crime.

Notice
to Board

(2) A victim who commences an action for damages against the person accused or convicted of the crime shall provide the Board with a copy of the statement of claim.

Payment
to victim

6.—(1) Where a victim obtains judgment in an action for damages commenced against the person accused or convicted of the crime, the Board, after a day five years and six months after the day the Board first received moneys under this Act, shall pay the amount of the judgment and costs to the victim from the funds it holds under this Act.

Action for
damages

(2) Where, on the day named in subsection (1), the Board has notice that a victim has commenced an action for damages against the person accused or convicted of the crime and that

the action has not been finally disposed of, the Board shall not make a payment under subsection (1) until the action has been finally disposed of.

(3) Where the aggregate amount of judgments and costs in respect of a particular crime exceeds the moneys received by the Board in respect of the crime, the Board shall distribute the moneys to the victims on a *pro rata* basis.

When funds insufficient

7.—(1) Where, on a day five years and six months after the day the Board first received moneys under this Act in respect of a particular crime, the Board has not been notified of an action commenced against the person accused or convicted of the crime during the five-year period described in subsection 5 (1), the Board shall release the moneys to the person accused or convicted of the crime.

Release of funds where no victim sues

(2) Where, after the Board has paid the full amounts of all judgments and costs payable to victims of a particular crime in accordance with this Act, the Board retains a balance of moneys received in respect of the crime, the Board shall pay the balance to the person accused or convicted of the crime.

Balance after judgments satisfied

8. Every person who contravenes section 2 of this Act is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.

Penalty

9. Nothing in this Act affects the power of the Board to award compensation to a victim under the *Compensation for Victims of Crime Act*.

Board's power under R.S.O. 1980, c. 82

10. This Act comes into force on the day it receives Royal Assent.

Commencement

11. The short title of this Act is the *Profits from Crime Act, 1984*.

Short title

Bill 34

An Act to control Non-resident Ownership
of Agricultural Land in Ontario

Mr. Swart

1st Reading April 10th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

The Bill is intended to replace the *Non-resident Agricultural Land Interests Registration Act*. Instead of simple registration, it places a ten hectare limit on non-resident ownership of Ontario farm land and provides that compliance may be enforced by an order of the Ontario Farm Ownership Board which would be enforced as an order of the Supreme Court. Non-residents are required to report all their holdings of farm land.

The Ontario Farm Ownership Board may permit, under certain circumstances, non-resident applicants to acquire or hold more land than the ten hectare limit and may impose terms and conditions on its permission.

It is an offence to exceed the ten hectare limit, except with the Board's permission, and the maximum fine is \$100,000. The maximum fine for furnishing false information or obstructing an inspector is \$5,000, and for failing to file a required report is \$25,000.

Bill 34

1984

An Act to control Non-resident Ownership of Agricultural Land in Ontario

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpretation

- (a) “agricultural land” means land in Ontario that,
 - (i) under a by-law passed under section 34 of the *Planning Act, 1983* or under an order made under section 46 of that Act, is zoned for agricultural use, or 1983, c. 1
 - (ii) is assessed under the *Assessment Act* or is actually used as farm or agricultural land or as an orchard; R.S.O. 1980, c. 31
- (b) “Board” means the Ontario Farm Ownership Board established under subsection 7 (1);
- (c) “conveyance” includes any document by which an interest in land is conveyed, and, without limiting the generality of the foregoing, includes a mortgage, charge, a final order of foreclosure under a mortgage or charge and an agreement of purchase and sale, and “conveyed” has a corresponding meaning;
- (d) “non-resident corporation” means a corporation, regardless of the jurisdiction in which it was formed or organized, that,
 - (i) is controlled directly or indirectly by one or more non-resident persons,
 - (ii) has issued shares to which are attached 50 per cent or more of the voting rights ordinarily

exercisable at meetings of shareholders to one or more non-resident persons,

- (iii) has issued shares to which are attached 25 per cent or more of the voting rights ordinarily exercisable at meetings of shareholders to any one non-resident person,
- (iv) has a board of directors one-half or more of which is composed of non-resident persons, or
- (v) is a corporation without share capital one-half or more of whose members are non-resident persons;

(e) “non-resident person” means,

- (i) an individual who is not ordinarily resident in Canada or who, if ordinarily resident in Canada, is neither a Canadian citizen nor a person who has been lawfully admitted to Canada for permanent residence in Canada,
- (ii) a non-resident corporation,
- (iii) a partnership, syndicate, associate or other organization one-half or more of whose members are non-resident persons or in which interests representing 50 per cent or more of the total value of the property of the partnership, syndicate, associate or other organization are beneficially owned by non-resident persons, or
- (iv) a trust in which non-resident persons within the meaning of subclause (i), (ii) or (iii) hold 50 per cent or more of the beneficial interests in the corpus of the trust or in the income arising therefrom;

(f) “prescribed” means prescribed by the regulations made under this Act.

Ordinarily
resident
defined

(2) For the purpose of clause (1) (c), an individual shall be considered to be ordinarily resident in Canada who, at the time the expression is being applied,

- (a) has sojourned in Canada for a period or aggregate period of at least 366 days during the immediately preceding twenty-four months;

- (b) is a member of the Canadian Forces required to reside outside Canada;
- (c) is an ambassador, minister, high commissioner, officer or servant of Canada, or is an agent-general, officer or servant of a province of Canada, and resided in Canada immediately prior to appointment or employment by Canada or a province of Canada or is entitled to receive representation allowances;
- (d) is performing services in a country other than Canada under an international development assistance program of the Government of Canada that is prescribed for the purposes of paragraph 250 (1) (d) of the *Income Tax Act* (Canada), and resided in Canada at any time in the three month period immediately preceding the day on which the services began; or
- (e) resides outside Canada and is the spouse or child of, and is living with, an individual described in clause (b), (c) or (d).

R.S.C. 1952,
c. 148

2.—(1) No non-resident person shall acquire an interest in agricultural land by way of a conveyance, purchase of shares in a corporation that has such an interest, or otherwise, except as authorized by the Board under subsection 8 (4), that results in the person holding an interest in an aggregate of more than ten hectares of agricultural land.

Prohibition
of non-
resident
ownership
above
permitted
level

(2) A non-resident person who acquires an interest in agricultural land in contravention of subsection (1) shall, whether another penalty is imposed for the contravention or not, within two years of the day of the acquisition reduce his or her ownership of agricultural land to ten hectares or less.

Excess
to be
reduced
within
two
years

(3) A non-resident person who on the 1st day of July, 1984 holds an interest in more than ten hectares of agricultural land shall within five years of that day reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Idem:
five
years

(4) A person who holds an interest in ten or more hectares of agricultural land and becomes a non-resident person shall within five years of becoming a non-resident person reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Idem:
where owner
becomes non-
resident

Idem:
inheritance

(5) A non-resident person who acquires an interest in agricultural land under a will or by inheritance that results in the person holding an interest in more than ten hectares of agricultural land shall within five years of the acquisition reduce his or her ownership of agricultural land to ten hectares or less, unless the Board authorizes the person to continue to hold a greater interest under subsection 8 (4).

Registration
report

3.—(1) A non-resident person who acquires an interest in agricultural land on or after the 1st day of July, 1984, whether by way of a conveyance, purchase of shares of a corporation that has such an interest, or otherwise, shall file a registration report in the prescribed form with the Board within ninety days after the registration.

Idem

(2) A non-resident person who has acquired an interest in agricultural land before the 1st day of July, 1984, and, on that day, retains an interest in agricultural land shall file a registration report in the prescribed form with the Board within one year after that day.

Cancellation
notice

(3) A non-resident person who disposes of or conveys away an interest in agricultural land in respect of the acquisition or holding of which a registration report was required to be filed under subsection (1) or (2) shall file a cancellation notice in the prescribed form with the Board within ninety days of the disposition.

Where
resident
becomes
non-resident

(4) A person who holds an interest in agricultural land and subsequently becomes a non-resident person shall file a registration report in the prescribed form with the Board within ninety days of becoming a non-resident.

Where
registration
report not
required

(5) Where a non-resident person files a registration report under this section respecting agricultural land and the registration report or material filed with the report,

- (a) provides information on other non-resident persons who are also required to file a registration report respecting that agricultural land; and
- (b) the information supplied under clause (a) is equivalent in nature and extent to the information required of a non-resident person filing a registration report,

those other non-resident persons are not required to file a separate registration report respecting that agricultural land.

4. Every registration report and cancellation notice shall set forth the prescribed information.

Contents of
report and
notice

5. Every registration report expires five years after the day on which it is filed and a non-resident person who continues to hold an interest referred to in his or her registration report shall file a new registration report with the Board within thirty days of the expiry of the earlier registration report.

Expiry of
registration
report

6. For the purposes of this Act, where a person who is a resident of Canada holds or acquires an interest in agricultural land that, if held or acquired by a non-resident person, would be subject to this Act, and knowingly holds that interest on behalf of a non-resident person, by agreement or otherwise, the person shall be deemed to be a non-resident person in respect of that interest.

Where
resident
deemed to
be non-
resident

7.—(1) The Ontario Farm Ownership Board is established and shall consist of at least three members appointed by the Lieutenant Governor in Council.

Board
established

(2) The Board may, subject to the approval of the Lieutenant Governor in Council, make rules governing its practice and procedures.

Rules

(3) The functions of the Board are,

Functions
of Board

(a) to administer and enforce this Act; and

(b) to hear and deal with applications under section 8.

(4) Inspectors required for the administration and enforcement of this Act may be appointed under the *Public Service Act*.

Inspectors
R.S.O. 1980,
c. 418

8.—(1) A non-resident person may apply to the Board for an authorization permitting him or her to acquire an interest in agricultural land that would result in the person holding an interest in an aggregate of more than ten hectares of agricultural land.

Application
for Board's
authorization

(2) A person to whom subsection 2 (3), (4) or (5) applies may apply to the Board for an authorization permitting him or her to continue to hold an interest in more than ten hectares of agricultural land.

Idem

(3) The Board shall deal with an application made under subsection (1) or (2) within ninety days of receiving it and may, but is not required to, do so by holding a hearing.

Board to
deal with
application

Powers
of Board

(4) On an application made under subsection (1) or (2), the Board may,

- (a) authorize the applicant to acquire or continue to hold an interest in specified agricultural land;
- (b) impose any terms or conditions on the authorization that the Board considers appropriate.

Criteria

(5) The Board may grant an application under subsection (1) or (2) if it finds that it is in the public interest to do so, and, in considering such applications, the Board may have regard to, among other matters, undue hardship which may result from the application of section 2, or evidence that a non-resident will become a resident within a reasonable period of time.

Order

(6) The Board may issue an order to a person having a land holding in contravention of this Act requiring the person to reduce his or her ownership of agricultural land to that permitted under this Act.

Enforcement

(7) The Board may file a copy of its order in the office of the Registrar of the Supreme Court whereupon the order shall be entered in the same way as an order of that court and be enforceable as such.

Obstructing
inspector

9.—(1) No person shall hinder or obstruct an inspector in the course of the inspector's duties, furnish him or her with false information, or refuse to permit an inspector to carry out the inspector's duties.

Certifica-
tion of
photocopy

(2) Where a book, record, document or extract that has been furnished to an inspector has been photocopied by the inspector, a photocopy purporting to be certified by the inspector to be a copy is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

False
information

10. No person shall knowingly furnish false information in a registration report or cancellation notice filed under this Act.

Offence

11.—(1) Every person who contravenes section 2 and every director or officer of a corporation who acquiesces or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$100,000.

(2) Every person who fails to file a registration report under section 3 and every director or officer of a corporation who acquiesces or concurs in such a failure by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. Idem

(3) Every person who contravenes subsection 9 (1) or section 10 and every director or officer of a corporation who acquiesces or concurs in such a contravention by the corporation is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. Idem

12. The Lieutenant Governor in Council may make regulations, Regulations

- (a) prescribing the form of a registration report and the information that must be contained in it;
- (b) prescribing the form of a cancellation notice and the information that must be contained in it;
- (c) prescribing other forms and providing for their use;
- (d) prescribing the powers and duties of inspectors;
- (e) prescribing the documents, records and information that must be furnished to inspectors;
- (f) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

13. The *Non-resident Agricultural Land Interests Registration Act*, being chapter 318 of the Revised Statutes of Ontario, 1980, is repealed.

14. This Act comes into force on the 1st day of July, 1984. Commence-
ment

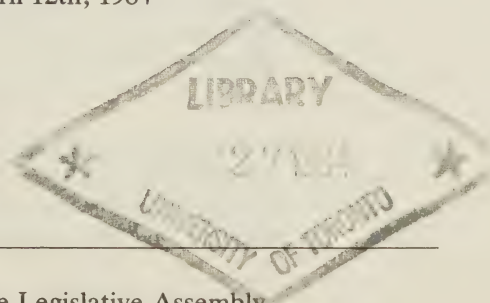
15. The short title of this Act is the *Ontario Farm Ownership Control Act, 1984*. Short title

Bill 35

An Act to amend the Liquor Licence Act

Mr. Cassidy

1st Reading April 12th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

Subsection 6 (2) of the Act in effect prevents the operation of "tied houses" in Ontario. The Bill would create an exception by permitting the Liquor Licence Board to issue licences to small brewers and persons connected with them. "Small brewer" is defined as a manufacturer of beer only who produces less than 2,000 hectolitres of beer annually.

Subsection 6 (2) now reads as follows:

- (2) *No licence shall be issued under this section or renewed and no approval of the transfer of a licence shall be given,*
- (a) *to a person who is under agreement with any person to sell the liquor of any manufacturer;*
 - (b) *to a manufacturer of liquor, or his agent, or to a person who is so associated or connected therewith, or financially interested therein as to be likely to promote the sale thereof;*
 - (c) *to a person who by reason of any agreement, arrangement, concession, obligation or understanding, verbal or written, or direct or indirect, with any other person is or by reason thereof may be likely to promote the sale of liquor of any manufacturer; or*
 - (d) *for premises in which a manufacturer of liquor, has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mortgage, lien or charge upon any chattel property therein and whether such interest is direct or indirect or contingent or by way of suretyship or guarantee.*

Bill 35**1984****An Act to amend the Liquor Licence Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Licence Act*, being chapter 244 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

(ma) “small brewer” means a manufacturer who produces less than 2,000 hectolitres of beer annually and produces no other liquor.

2. Subsection 6 (2) of the said Act is repealed and the following substituted therefor:

(2) No licence shall be issued under this section or renewed and no approval of the transfer of a licence shall be given, Where issue of licence prohibited

- (a) to a person who has an agreement with another person to sell the liquor of a manufacturer other than a small brewer;
- (b) to a manufacturer of liquor other than a small brewer, to the manufacturer’s agent, or to a person who is so associated or connected with the manufacturer or financially interested in the manufacturer’s business as to be likely to promote the sale of the manufacturer’s liquor;
- (c) to a person who by reason of an agreement or arrangement of any kind, whether verbal or written, or direct or indirect, with another person is or may be likely to promote the sale of liquor of a manufacturer other than a small brewer; or
- (d) for premises in which a manufacturer of liquor other than a small brewer has an interest, whether freehold or leasehold, or by way of mortgage or charge or other encumbrance, or by way of mort-

gage, lien or charge upon chattel property on the premises, and whether the interest is direct, indirect, contingent or by way of suretyship or guarantee.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

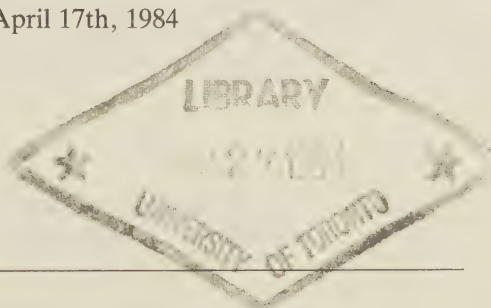
4. The short title of this Act is the *Liquor Licence Amendment Act, 1984*.

Bill 36

An Act to amend the Ministry of Energy Act

The Hon. P. Andrewes
Minister of Energy

1st Reading April 17th, 1984
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTES

SECTION 1. Section 8 of the Act sets out the objectives of the Ministry. The amendments add to those objectives and add corresponding authority of the Minister.

SECTION 2. New section 8a is added to the Act to assist the Minister in determining the disposition of financial assistance paid under the Act.

SECTION 3.—Subsection 1. Section 9 of the Act authorizes the delegation of powers or duties by the Minister. The amendment removes the requirement that the delegation be approved by the Lieutenant Governor in Council.

Subsection 2. Section 6 of the *Executive Council Act* is as follows:

6. *No deed or contract in respect of any matter under the control or direction of a minister is binding on Her Majesty or shall be deemed to be the act of such minister unless it is signed by him or is approved by the Lieutenant Governor in Council.*

Bill 36

1984

An Act to amend the Ministry of Energy Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 8 of the *Ministry of Energy Act*, being chapter 277 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate,
- (i) to increase the availability of energy in Ontario,
- (ii) to stimulate the search for and development of sources of energy, including those that utilize waste and those that are renewable, as alternatives to the sources of energy available for use in Ontario, and
- (iii) to encourage prudence in the use of energy in Ontario.

(2) The said section 8 is further amended by adding thereto the following subsection:

(2) The Minister or, subject to the direction and control of the Minister, the Deputy Minister may, in respect of any matter for which the Minister has responsibility under this or any other Act,

Authority of
Minister

- (a) undertake research;
- (b) do any one or more of promoting, commissioning or participating in research, experiments, feasibility

studies, pilot or demonstration projects, testing activities and evaluations;

- (c) develop and co-ordinate plans and programs;
- (d) promote and engage in the dissemination of information;
- (e) enter into agreements for and in the name of the Crown;
- (f) make grants and, subject to the approval of the Lieutenant Governor in Council, make loans.

2. The said Act is amended by adding thereto the following section:

Accounting
statement
related to
financial
assistance
R.S.O. 1980,
c. 405

8a. The Minister may require a person or an organization that has received financial assistance under this Act to submit to the Minister a statement prepared by an individual licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

3.—(1) Section 9 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third line.

(2) The said section 9 is further amended by adding thereto the following subsection:

Effect of
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract made by a person empowered to do so by a delegation under subsection (1) has the same effect as if made and signed by the Minister.

Commence-
ment

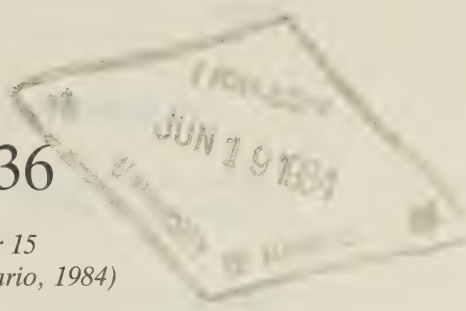
4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Ministry of Energy Amendment Act, 1984*.

Bill 36

(Chapter 15
Statutes of Ontario, 1984)



An Act to amend the Ministry of Energy Act

The Hon. P. Andrewes
Minister of Energy

<i>1st Reading</i>	April 17th, 1984
<i>2nd Reading</i>	May 11th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 36**1984****An Act to amend the Ministry of Energy Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 8 of the *Ministry of Energy Act*, being chapter 277 of the Revised Statutes of Ontario, 1980, is amended by striking out “and” at the end of clause (c), by adding “and” at the end of clause (d) and by adding thereto the following clause:

- (e) do any one or more of encouraging, promoting, developing or participating in such activities, projects and programs as the Minister considers appropriate,
- (i) to increase the availability of energy in Ontario,
- (ii) to stimulate the search for and development of sources of energy, including those that utilize waste and those that are renewable, as alternatives to the sources of energy available for use in Ontario, and
- (iii) to encourage prudence in the use of energy in Ontario.

(2) The said section 8 is further amended by adding thereto the following subsection:

(2) The Minister or, subject to the direction and control of the Minister, the Deputy Minister may, in respect of any matter for which the Minister has responsibility under this or any other Act,

Authority of
Minister

- (a) undertake research;
- (b) do any one or more of promoting, commissioning or participating in research, experiments, feasibility

studies, pilot or demonstration projects, testing activities and evaluations;

- (c) develop and co-ordinate plans and programs;
- (d) promote and engage in the dissemination of information;
- (e) enter into agreements for and in the name of the Crown;
- (f) make grants and, subject to the approval of the Lieutenant Governor in Council, make loans.

2. The said Act is amended by adding thereto the following section:

Accounting
statement
related to
financial
assistance
R.S.O. 1980,
c. 405

8a. The Minister may require a person or an organization that has received financial assistance under this Act to submit to the Minister a statement prepared by an individual licensed under the *Public Accountancy Act* that sets out the details of the disposition of the financial assistance by the person or organization.

3.—(1) Section 9 of the said Act is amended by striking out “subject to the approval of the Lieutenant Governor in Council” in the third line.

(2) The said section 9 is further amended by adding thereto the following subsection:

Effect of
R.S.O. 1980,
c. 147

(2) Notwithstanding the *Executive Council Act*, a contract made by a person empowered to do so by a delegation under subsection (1) has the same effect as if made and signed by the Minister.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Ministry of Energy Amendment Act, 1984*.

Bill 37

An Act to amend the Ontario Pensioners Property Tax Assistance Act

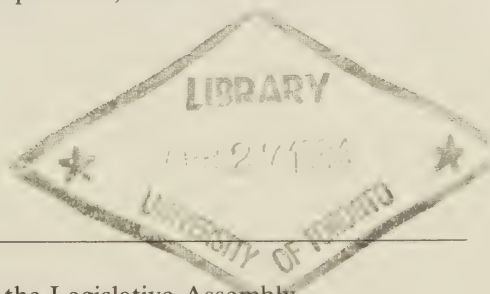
The Hon. B. Gregory
Minister of Revenue

1st Reading April 17th, 1984

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTES

GENERAL. The Bill provides two administrative provisions to clarify the provisions relating to the payment of sales tax grants and to provide for a waiver with respect to collecting overpayments of grants in certain circumstances.

SECTION 1. The amendment adds a new subsection to section 7 of the Act to provide for the same time limit on requests for sales tax grants which currently applies on applications for property tax grants, where the recipient has not otherwise received a sales tax grant.

SECTION 2. The amendment adds a new subsection to section 14 to permit the Minister to waive in whole or in part the repayment of grant overpayments where it is deemed unreasonable in the circumstances to demand repayment of the whole amount from a grant recipient or his estate.

SECTION 3. The amendments are deemed to have come into force on the day the Act came into force.

Bill 37

1984

**An Act to amend the
Ontario Pensioners Property Tax Assistance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3 and 1981, chapter 45, section 1, is further amended by adding thereto the following subsection:

(3) Where an individual who is eligible to receive a grant under subsection (1) has not received the grant by the end of one month after the year to which the grant relates, no grant is payable under subsection (1) unless the Minister has received a written request therefor not later than twelve months after the end of the year to which the grant relates.

Time limit
for grant

2. Section 14 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection (1), if owing to special circumstances it is deemed unreasonable to demand repayment of the whole amount due under this section, the Minister may accept such amount as he considers proper.

Special
circumstances

3. This Act shall be deemed to have come into force on the 1st day of July, 1980.

Commence-
ment

4. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1984*.

Short title

Bill 37

(Chapter 16
Statutes of Ontario, 1984)



An Act to amend the Ontario Pensioners Property Tax Assistance Act

The Hon. B. Gregory
Minister of Revenue

<i>1st Reading</i>	April 17th, 1984
<i>2nd Reading</i>	May 11th, 1984
<i>3rd Reading</i>	May 25th, 1984
<i>Royal Assent</i>	May 29th, 1984

Bill 37

1984

An Act to amend the Ontario Pensioners Property Tax Assistance Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 7 of the *Ontario Pensioners Property Tax Assistance Act*, being chapter 352 of the Revised Statutes of Ontario, 1980, as amended by the Statutes of Ontario, 1981, chapter 14, section 3 and 1981, chapter 45, section 1, is further amended by adding thereto the following subsection:

(3) Where an individual who is eligible to receive a grant under subsection (1) has not received the grant by the end of one month after the year to which the grant relates, no grant is payable under subsection (1) unless the Minister has received a written request therefor not later than twelve months after the end of the year to which the grant relates.

Time limit
for grant

2. Section 14 of the said Act is amended by adding thereto the following subsection:

(3) Notwithstanding subsection (1), if owing to special circumstances it is deemed unreasonable to demand repayment of the whole amount due under this section, the Minister may accept such amount as he considers proper.

Special
circumstances

3. This Act shall be deemed to have come into force on the 1st day of July, 1980.

Commence-
ment

4. The short title of this Act is the *Ontario Pensioners Property Tax Assistance Amendment Act, 1984*.

Short title

Bill 38

An Act to amend the Health Insurance Act

Mr. Cooke

1st Reading April 17th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would prevent physicians and practitioners from billing their patients for amounts exceeding the amounts payable by O.H.I.P.

Bill 38**1984****An Act to amend the Health Insurance Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Insurance Act*, being chapter 197 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

22a. No physician and no practitioner engaged in the practice of a discipline designated by the regulations shall submit an account to a patient in respect of insured services for an amount that exceeds the amount payable by the Plan in respect of the insured services.

Extra billing
prohibited

2. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

3. The short title of this Act is the *Health Insurance Amendment Act, 1984*.

Short title

Bill 39

An Act to amend the Liquor Control Act

Mr. Samis

1st Reading April 17th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The purpose of the Bill is to enable independent grocery store owners to sell beer and Ontario wine.

Bill 39

1984

An Act to amend the Liquor Control Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of the *Liquor Control Act*, being chapter 243 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clause:

- (ca) “independent grocery store owner” means a person who owns a store at which the principal business is the sale of foodstuffs and who does not own or, under the terms of an agreement, participate in a chain or franchise undertaking consisting of more than three other grocery stores.

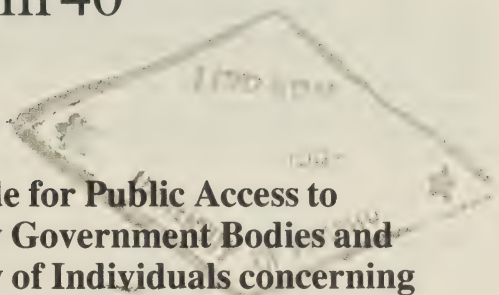
2. Section 3 of the said Act is amended by adding thereto the following clause:

- (ea) to authorize independent grocery store owners to sell beer and Ontario wine from their grocery stores and to regulate their keeping for sale, sale and delivery of beer and Ontario wine.

3. This Act comes into force on the day it receives Royal Assent. Commence-
ment

4. The short title of this Act is the *Liquor Control Amendment Act, 1984*. Short title

Bill 40



**An Act to provide for Public Access to
Information held by Government Bodies and
to protect the Privacy of Individuals concerning
whom Information is held by Government Bodies**

Mr. Philip

1st Reading April 18th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Act establishes a public right of access to recorded information held by government bodies, subject only to specific exceptions. It also controls the disclosure of personal information by government bodies and establishes the right of individuals to see, and obtain corrections to, personal information relating to them that is held by government bodies. Refusals to give access or make corrections may be investigated and reviewed by the Ombudsman, who is also given the duty of investigating and reviewing the handling of recorded personal information by individuals and organizations in the private sector.

Bill 40

1984

**An Act to provide for Public Access to
Information held by Government Bodies and
to protect the Privacy of Individuals concerning
whom Information is held by Government Bodies**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpretation

- (a) “government body” means,
 - (i) a ministry of the Crown,
 - (ii) a Crown agency, or
 - (iii) a board, commission, corporation or other organization with a majority of members appointed by a minister of the Crown or by the Lieutenant Governor in Council;
- (b) “Ombudsman” means the Ombudsman appointed under the *Ombudsman Act*;
- (c) “personal information” means information that relates to an identifiable individual;
- (d) “prescribed” means prescribed by the regulations made under this Act;
- (e) “record” means recorded information, regardless of physical form or characteristics.

R.S.O. 1980,
c. 325

PUBLIC ACCESS TO INFORMATION

2.—(1) A government body shall make a copy of any record in its possession or control available, at no cost except reasonable copying costs, to any person on request.

Access to
record

Duty of
government
body

(2) A government body shall, within thirty days of receiving a person's request under subsection (1),

- (a) make a copy of the record available to the person;
- (b) notify the person that the government body refuses to give him or her access to part of the record, stating the reasons for the refusal, and give the person access to the rest of the record;
- (c) notify the person that the government body refuses to give him or her access to the record, stating the reasons for the refusal; or
- (d) notify the person that the record does not exist, if that is the case.

Notice of
right of
review

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

Exempt
categories

(4) Subsection (1) does not apply to a record,

- (a) of a legal opinion prepared for the use of the government body;
- (b) whose release would be detrimental to the security of Ontario or Canada;
- (c) dealing with international relations, whose release would be detrimental to the future conduct of Ontario's or Canada's foreign relations;
- (d) whose release would be detrimental to the future conduct of federal-provincial relations or the relations of the provinces with one another;
- (e) whose release would result directly in financial gain or loss by a person or group of persons;
- (f) reflecting on an individual's personal competence or character;
- (g) whose release would be personally embarrassing to Her Majesty, the Royal Family or official representatives of Her Majesty;
- (h) relating to negotiations leading up to a contract, until the contract has been executed or the negotiations have been concluded;

- (i) relating to a policy decision that is still under consideration;
- (j) whose disclosure is prohibited by a statute;
- (k) of the Executive Council;
- (l) that relates to a proceeding before a court of justice or a judicial inquiry; or
- (m) of a prescribed class.

(5) The Lieutenant Governor in Council may order the disclosure of a record that is described in subsection (4) and whose disclosure, in the opinion of the Lieutenant Governor in Council, would be in the public interest.

Lieutenant Governor in Council may order disclosure of exempt record

(6) Subsection (1) does not apply to personal information, except for,

Personal information excepted

- (a) the name, title, duties, classification, if any, salary, telephone number at work and address at work of an officer, member or employee of a government body;
- (b) details of a contract for the provision of goods or services by an individual to a government body, and the individual's name; and
- (c) details of a discretionary economic benefit received by an individual from a government body, and the individual's name.

PROTECTION OF INDIVIDUAL PRIVACY

3.—(1) No government body shall disclose or permit the disclosure of personal information that is contained in a record in its possession and control without the consent of the person to whom the information relates.

Disclosure without consent prohibited

(2) Despite any other Act or any regulation made under another Act that authorizes a government body to disclose personal information to another government body or to a ministry or agency of the government of another jurisdiction than Ontario without the consent of the person to whom the information relates, such a disclosure shall not be made except in accordance with a written agreement between the two government bodies or between the government body and the ministry or agency, as the case may be, that has been approved by the Ombudsman.

Disclosure by one government body to another

Exceptions

(3) Subsections (1) and (2) do not apply to the disclosure of information,

- (a) to the government body's own officers, members, employees, agents and advisors for use in the performance of their duties;
- (b) to the Attorney General for use in a proceeding in Ontario;
- (c) to a police officer for use in a criminal prosecution in Ontario;
- (d) by a person who believes on reasonable grounds that another person's life or health will be endangered if the information is not disclosed immediately;
- (e) to be used for purposes of legitimate research, in accordance with guidelines established by the Ombudsman; or
- (f) that is personal information described in clause 2 (6) (a), (b) or (c).

Unnecessary
collection of
information
prohibited

4. No government body shall collect or permit the collection on its behalf of personal information that is not actually required for the performance of the government body's functions.

Duty of
government
body

5.—(1) A government body that has possession or control of a record containing personal information, except a record described in subsection 2 (4) (exempt categories), shall,

- (a) ensure that the personal information in the record is accurate and is kept up to date;
- (b) give the Ombudsman written notice of,
 - (i) the name or title of the record,
 - (ii) the nature of the personal information, including the individual's name,
 - (iii) the source of the personal information, and the purpose for which it was collected, and
 - (iv) any changes in the matters referred to in sub-clauses (i), (ii) and (iii); and

- (c) note in the record every disclosure of the personal information, naming the person to whom it is disclosed and specifying the reason for the disclosure.

(2) Clause (1) (c) does not apply to the routine use of a record by the government body's own officers, members, employees, agents and advisors.

Routine
internal
use

(3) The Ombudsman may investigate a government body's record keeping and disclosure practices with respect to personal information and may recommend changes in those practices.

Powers of
Ombudsman

6.—(1) A government body shall make a copy of personal information contained in a record in its possession or control available, at no cost except reasonable copying costs, to the individual to whom the personal information relates, at the individual's request.

Access to
own personal
information

(2) A government body shall, within thirty days of receiving an individual's request under subsection (1),

Duty of
government
body

- (a) make a copy of the personal information available to the individual;
- (b) notify the individual that the government body refuses to give him or her access to part of the personal information, stating the reasons for the refusal, and give the individual a copy of the rest of the personal information;
- (c) notify the individual that the government body refuses to give him or her access to the personal information, stating the reasons for the refusal; or
- (d) notify the person that the record does not exist, if that is the case.

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

Notice of
right of
review

(4) Subsection (1) does not apply to personal information,

Exceptions

- (a) that was collected or is being held for use in a criminal prosecution in Ontario;
- (b) whose disclosure to the individual requesting it would contravene subsection 3 (1) because it also

relates to another individual whose consent is not obtained; or

- (c) that is contained in a record described in subsection 2 (4).

Request for
correction

7.—(1) An individual may request that a government body correct errors or omissions in personal information relating to him or her that is contained in a record in the possession or control of the government body.

Duty of
government
body

(2) Where an individual requests a correction under subsection (1), the government body shall, within thirty days of receiving the request,

- (a) make the correction as requested, and give notice of the correction to every person and other government body to whom the government body has disclosed the personal information;
- (b) notify the individual that the government body refuses to make the correction as requested, stating the reasons for the refusal, and note the request and response on the record; or
- (c) notify the individual that the record does not exist, if that is the case.

Notice of
right of
review

(3) A notice of a refusal of access under clause (2) (b) or (c) shall contain a statement of the person's right to request a review by the Ombudsman under section 8.

DUTIES OF OMBUDSMAN

Application
for review by
Ombudsman:
government
body

8.—(1) A person whose request for a copy of a record under subsection 2 (1), for access to personal information under subsection 7 (1) or for correction under subsection 9 (1) is refused may apply to the Ombudsman for a review of the matter.

Idem:
private
sector

(2) A person who has concerns about the handling of personal information relating to him or her that is contained in a record in the possession or control of a person other than a government body may apply to the Ombudsman for a review of the matter.

Duty of
Ombudsman

(3) On an application under subsection (1) or (2), the Ombudsman shall investigate and review the matter and make a report to the applicant.

9. The Ombudsman’s annual report referred to in section 12 of the *Ombudsman Act* shall contain comments and recommendations on the record keeping and disclosure practices of persons and government bodies with respect to personal information.

Annual
report
R.S.O. 1980,
c. 325

10. The *Ombudsman Act* applies with necessary modifications to the Ombudsman’s activities under this Act.

R.S.O. 1980,
c. 325
applies

11. The Lieutenant Governor in Council may make regulations prescribing classes of records for the purpose of clause 2 (4) (m) (exempt records).

Regulations

12. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Commence-
ment

13. The short title of this Act is the *Freedom of Information and Privacy Act, 1984*.

Short title

Bill 41

An Act to amend the Public Commercial Vehicles Act

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

Bill 139 passed in 1983 set up a procedure whereby holders of operating licences could apply to the Board for a rewritten certificate. The Board was empowered to issue rewritten certificates or to consolidate several certificates after a hearing.

Provision was made for the Board to publish notice of its intentions and to provide opportunity for objectors to be heard.

The current Bill removes the requirement to publish notice and to hear objections. The applicants right to a hearing is retained.

Section 37 of the Act is the section authorizing the making of regulations. The added regulation making authority is complementary to section 10b of the Act which was enacted in 1983 but is not yet in force. Section 10b sets up the procedure to apply for rewritten certificates.

Bill 41

1984

**An Act to amend the
Public Commercial Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10b (6) of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “may propose to” in the first and second lines and inserting in lieu thereof “shall”.

(2) Subsection 10b (8) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “or (16)” in the second line.

(3) Subsections 10b (9) to (16) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, are repealed.

(4) Subsection 10b (17) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “(13) or (16)” in the first and second lines and inserting in lieu thereof “(6)”.

2. Subsection 37 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 71, section 15, is further amended by adding thereto the following paragraph:

32. prescribing classes of certificates and the form of certificates issued under section 10b and the terms and conditions to which such certificates shall be subject.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is the *Public Commercial Vehicles Amendment Act, 1984*. Short title

Bill 41

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

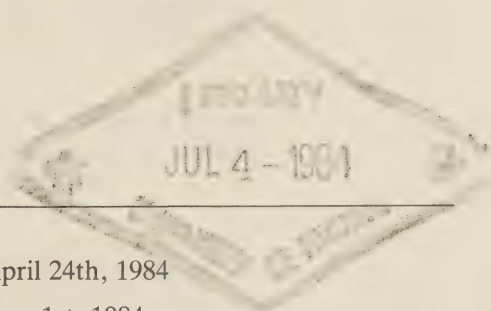
Bill 41

*(Chapter 20
Statutes of Ontario, 1984)*

An Act to amend the Public Commercial Vehicles Act

The Hon. J. W. Snow

Minister of Transportation and Communications



<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	June 1st, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 41

1984

**An Act to amend the
Public Commercial Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 10b (6) of the *Public Commercial Vehicles Act*, being chapter 407 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “may propose to” in the first and second lines and inserting in lieu thereof “shall”.

(2) Subsection 10b (8) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “or (16)” in the second line.

(3) Subsections 10b (9) to (16) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, are repealed.

(4) Subsection 10b (17) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 79, section 1, is amended by striking out “(13) or (16)” in the first and second lines and inserting in lieu thereof “(6)”.

2. Subsection 37 (1) of the said Act, as amended by the Statutes of Ontario, 1981, chapter 71, section 15, is further amended by adding thereto the following paragraph:

32. prescribing classes of certificates and the form of certificates issued under section 10b and the terms and conditions to which such certificates shall be subject.

3. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor. Commence-
ment

4. The short title of this Act is the *Public Commercial Vehicles Amendment Act, 1984*. Short title

Bill 43

An Act to amend the Off-Road Vehicles Act, 1983

The Hon. J. W. Snow
Minister of Transportation and Communications

1st Reading April 24th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTES

SECTION 1. The definition of highway is clarified.

SECTION 2. Section 4 of the Act now prohibits children under the age of twelve from driving except on land occupied by the vehicle owner. The provision as recast provides a further exception where the child is under close supervision of an adult.

SECTION 3. The new provision expands the regulation making authority.

Bill 43

1984

**An Act to amend the
Off-Road Vehicles Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Off-Road Vehicles Act, 1983*, being chapter 53, is repealed and the following substituted therefor:

- (b) “highway”, includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) No owner of an off-road vehicle shall permit a child under the age of twelve to drive the vehicle. Age limit for driving

(2) Subsection (1) does not apply where the child is driving the vehicle, Exception

- (a) on land occupied by the vehicle owner; or
- (b) under the close supervision of an adult.

3. Subsection 5 (7) of the said Act is amended by adding thereto the following clause:

- (g) prescribing conditions precedent to be met before an issued permit is valid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Off-Road Vehicles Amendment Act, 1984*.

Bill 43

*(Chapter 44
Statutes of Ontario, 1984)*

An Act to amend the Off-Road Vehicles Act, 1983



The Hon. J. W. Snow

Minister of Transportation and Communications

<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	October 9th, 1984
<i>3rd Reading</i>	November 23rd, 1984
<i>Royal Assent</i>	November 27th, 1984

Bill 43**1984**

**An Act to amend the
Off-Road Vehicles Act, 1983**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Clause 1 (b) of the *Off-Road Vehicles Act, 1983*, being chapter 53, is repealed and the following substituted therefor:

- (b) “highway”, includes a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

2. Section 4 of the said Act is repealed and the following substituted therefor:

4.—(1) No owner of an off-road vehicle shall permit a child under the age of twelve to drive the vehicle. Age limit for driving

(2) Subsection (1) does not apply where the child is driving the vehicle, Exception

- (a) on land occupied by the vehicle owner; or
- (b) under the close supervision of an adult.

3. Subsection 5 (7) of the said Act is amended by adding thereto the following clause:

- (g) prescribing conditions precedent to be met before an issued permit is valid.

Commence-
ment

4. This Act comes into force on the day it receives Royal Assent.

Short title

5. The short title of this Act is the *Off-Road Vehicles Amendment Act, 1984*.

Bill 44

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

The Bill contains amendments related to Education.

SECTION 1.—Subsection 1. The method of computing the reduction of an apportionment in relation to a surplus is changed. The method of computation is set out in the new subsection 127 (4a) of the Act.

Subsection 2. Boards of education are required to transfer the remainders of surpluses to the School Board and the School Board is required to reduce its estimates by the amounts transferred to it.

Subsection 3. The definition of “total rateable property” is amended.

SECTION 2. The amendments to section 130j of the Act are complementary to the amendments to section 133 of the Act and to new section 133a, set out in the Bill. The amendments remove the term “total rateable property” from the section and refer instead to moneys transferred under sections 133 and 133a of the Act.

SECTION 3. The amendments to section 133 of the Act relate to the amounts that boards of education may require the councils of area municipalities to levy and collect, and set out the method of sharing such amounts among the boards of education in the Metropolitan Area.

SECTION 4. New section 133a of the Act provides for additional transitional levies that may be required by The Board of Education for the City of Toronto in the years 1984 to 1987. New section 133b of the Act directs the School Board in the application of amounts transferred to it as part of the method of sharing under section 133, and the section provides for special situations of the School Board related to the transfer of amounts under section 133.

Bill 44

1984

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 127 (4) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall reduce the apportionment for public elementary or for secondary school purposes, as the case requires, to the area municipality in which the board of education has jurisdiction in an amount computed in accordance with subsection (4a).

Reduction of
apportionment

(4a) The following rules apply in respect of the reduction of an apportionment under subsection (4) in relation to a specific year:

Rules for
reduction

1. Compute for the immediately preceding year the proportion that the total rateable property for public elementary school purposes or for secondary school purposes, as the case requires, in the area municipality was of the total rateable property in relation to the Metropolitan Area.
2. Compute in respect of the immediately preceding year the proportion that the estimates of the board of education approved by the School Board for public elementary school purposes or for secondary school purposes, as the case requires, was of the

aggregate of the estimates of all of the boards of education approved by the School Board.

3. Divide the proportion computed under Rule 1 by the proportion computed under Rule 2.
4. Where the quotient computed under Rule 3 is equal to or greater than one, the apportionment shall be reduced by an amount equal to the amount of the surplus mentioned in subsection (4).
5. Where the quotient computed under Rule 3 is less than one, the apportionment shall be reduced by an amount computed by multiplying the surplus mentioned in subsection (4) by the quotient computed under Rule 3.

(2) Section 127 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 6, is further amended by adding thereto the following subsections:

Transfer of
balance of
surplus

(6a) Every board of education shall transfer to the School Board an amount equal to the difference between the amount of the surplus of the board of education mentioned in clause 133 (1) (b) and an amount equal to the amount computed in respect of the board of education under subsection (4a).

Application
of amount
transferred

(6b) The School Board shall apply amounts transferred to it under subsection (6a) to reduce the estimates submitted by it to the Metropolitan Council.

(3) Sub-subclause 127 (7) (c) (i) (B) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

.

2.—(1) Clause 130j (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed.

(2) Clause 130j (2) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed and the following substituted therefor:

- (b) does not exceed the aggregate of the amounts that are required to be transferred to the board of education under sections 133 and 133a for public ele-

mentary school purposes or for secondary school purposes, as the case requires, by the council of the area municipality in which the board of education has jurisdiction and by the School Board.

(3) Subsection 130j (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for public elementary school purposes, the board of education,

Termination
of
employment,
additional
elementary
school
teachers

.

(4) Subsection 130j (5) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for secondary school purposes, the board of education,

Termination
of
employment,
secondary
school
teachers

.

3.—(1) Subsection 133 (4) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 9, is repealed and the following substituted therefor:

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which the board of education has jurisdiction the estimates of the board of education that were submitted to the School Board as adjusted in accordance with subsections (4a) and (4b) and a requisition of the amount of the estimates for public elementary school purposes and for secondary school purposes required to be raised by the council.

Estimates
to council
of area
municipality

(4a) The estimates mentioned in subsection (4) shall be adjusted as follows:

Adjustment
of estimates

1. The board of education shall adjust the estimates to include and to make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board.

2. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for public elementary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for public elementary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for public elementary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the Metropolitan Area for public elementary school purposes, and
 - iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for public elementary school purposes.
3. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for secondary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for secondary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for secondary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one mill in the dollar upon the total rateable property (as defined in section

127) in the Metropolitan Area for secondary school purposes, and

- iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for secondary school purposes.

(4b) The estimates, as adjusted under subsection (4a) shall be further adjusted as follows: Further adjustment

1. The board of education shall divide the amount that, having regard for the computations required by subsection (4a), the board of education determines is necessary for its purposes by the amount of the estimates of the board of education that have been approved by the School Board as adjusted in accordance with subsection (4a), but excluding the adjustment in subparagraph iii of paragraph 2 or in subparagraph iii of paragraph 3, as the case requires, of subsection (4a).
2. The board of education shall multiply the quotient obtained under paragraph 1 by,
 - i. one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public elementary school purposes, or
 - ii. one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes.

(4c) A board of education that submits estimates and a requisition to the council of an area municipality under subsection (4) shall transmit to the School Board a copy of the estimates and requisition. Transmittal of copy to School Board

(4d) A board of education must submit its estimates and requisition under subsection (4) and transmit a copy under subsection (4b) within twenty days after the School Board notifies the board of education under subsection (2) of the extent to which its estimates have been approved by the School Board. Time limit

(2) Subsection 133 (5) of the said Act is repealed and the following substituted therefor:

Local levy

(5) The council of an area municipality shall levy and collect each year the moneys requisitioned for the year for public elementary school purposes or for secondary school purposes, or both, in accordance with subsection (4) by the board of education that has jurisdiction in the area municipality.

Where levy
equal to
need

(5a) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are equal to the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education, the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5).

Where levy
less than
need

(5b) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are less than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5); and
- (b) the School Board shall transfer to the board of education an amount equal to the difference between the amount the board of education has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education and the amount of the moneys the council of the area municipality is required to transfer under clause (a) to the board of education.

Where levy
greater
than need

(5c) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are greater than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer to the board of education from time to time as required by the board of edu-

cation, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5), amounts that in the aggregate do not exceed the amount the board of education has determined is necessary for its purposes; and

- (b) the council shall transfer to the School Board, at the same times as amounts are transferred under clause (a), amounts that in the aggregate are equal to the difference between the amount of moneys that the council is required to levy and collect and the aggregate of the amounts that the council is required under clause (a) to transfer to the board of education.

4. The said Act is amended by adding thereto the following sections:

133a.—(1) In this section, “Board of Education” means Interpretation
The Board of Education for the City of Toronto.

(2) Where in the years 1984, 1985, 1986 and 1987 the City of
Toronto,
transitional
Board of Education determines that more moneys are necessary for its public elementary school purposes than will be obtained under other sections in this Part, the Board of Education may submit to the council of the City of Toronto with the estimates submitted under subsection 133 (4) a requisition for such additional moneys.

(3) The maximum amount that may be requisitioned under Maximum
amount
subsection (2) is the amount of money that would be raised by a levy of,

- (a) 0.4 mills in the dollar in the year 1984;
- (b) 0.3 mills in the dollar in the year 1985;
- (c) 0.2 mills in the dollar in the year 1986; and
- (d) 0.1 mills in the dollar in the year 1987,

upon the total rateable property (as defined in section 127) in the City of Toronto for public elementary school purposes.

(4) The council of the City of Toronto shall levy and collect Levy
in the year the moneys requisitioned in accordance with subsections (2) and (3) for the year by the Board of Education and shall transfer the moneys to the Board of Education from time to time as required by the Board of Education, but not

later than the 15th day of December in the year for which the moneys were requisitioned.

Application
of moneys
transferred to
School Board

133b.—(1) The School Board shall apply moneys transferred to it in each year under section 133 by the councils of the area municipalities,

- (a) firstly, for the purpose of the transfers to boards of education that the School Board is required to make in the year under section 133; and
- (b) secondly, to reduce the estimates submitted by the School Board to the Metropolitan Council in the next year.

Reduction
of estimates
in current
year

(2) Where, in any year, the School Board complies with clause (1) (a) before submitting its estimates to the Metropolitan Council, the School Board may apply any amount remaining out of the moneys transferred to it under section 133 to reduce its estimates in the year instead of the next year.

Increase of
estimates in
current year

(3) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has not submitted its estimates for the year to the Metropolitan Council, the School Board may include in the estimates the amount that it considers necessary to enable it to comply with clause (1) (a).

Short term
borrowing

(4) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has submitted its estimates for the year to the Metropolitan Council, the School Board may borrow the moneys required to enable it to comply with clause (1) (a) by promissory note until sufficient moneys are transferred to the School Board under section 133 or by the Metropolitan Council.

Elementary
school
purposes

(5) Moneys levied and collected upon requisitions for public elementary school purposes shall be applied under subsection (1) in respect of public elementary school purposes.

Secondary
school
purposes

(6) Moneys levied and collected upon requisitions for secondary school purposes shall be applied under subsection (1) in respect of secondary school purposes.

5. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

6. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*. Short title

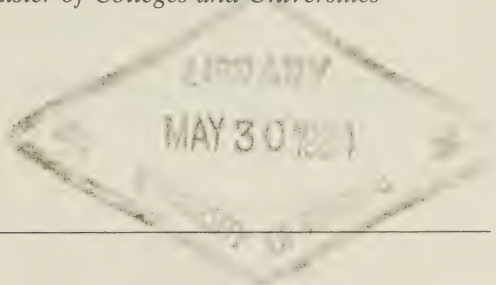
Bill 44

(Chapter 10
Statutes of Ontario, 1984)

An Act to amend the Municipality of Metropolitan Toronto Act

The Hon. B. Stephenson

Minister of Education and Minister of Colleges and Universities



<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	May 1st, 1984
<i>3rd Reading</i>	May 1st, 1984
<i>Royal Assent</i>	May 1st, 1984

Bill 44

1984

**An Act to amend the
Municipality of Metropolitan Toronto Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Subsection 127 (4) of the *Municipality of Metropolitan Toronto Act*, being chapter 314 of the Revised Statutes of Ontario, 1980, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(4) Where the estimates for public elementary or for secondary school purposes of a board of education in the Metropolitan Area that are approved in whole or in part by the School Board have been reduced in accordance with clause 133 (1) (b) by the application of a surplus, the School Board shall reduce the apportionment for public elementary or for secondary school purposes, as the case requires, to the area municipality in which the board of education has jurisdiction in an amount computed in accordance with subsection (4a).

Reduction of
apportionment

(4a) The following rules apply in respect of the reduction of an apportionment under subsection (4) in relation to a specific year:

Rules for
reduction

1. Compute for the immediately preceding year the proportion that the total rateable property for public elementary school purposes or for secondary school purposes, as the case requires, in the area municipality was of the total rateable property in relation to the Metropolitan Area.
2. Compute in respect of the immediately preceding year the proportion that the estimates of the board of education approved by the School Board for public elementary school purposes or for secondary school purposes, as the case requires, was of the

aggregate of the estimates of all of the boards of education approved by the School Board.

3. Divide the proportion computed under Rule 1 by the proportion computed under Rule 2.
4. Where the quotient computed under Rule 3 is equal to or greater than one, the apportionment shall be reduced by an amount equal to the amount of the surplus mentioned in subsection (4).
5. Where the quotient computed under Rule 3 is less than one, the apportionment shall be reduced by an amount computed by multiplying the surplus mentioned in subsection (4) by the quotient computed under Rule 3.

(2) Section 127 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 6, is further amended by adding thereto the following subsections:

Transfer of
balance of
surplus

(6a) Every board of education shall transfer to the School Board an amount equal to the difference between the amount of the surplus of the board of education mentioned in clause 133 (1) (b) and an amount equal to the amount computed in respect of the board of education under subsection (4a).

Application
of amount
transferred

(6b) The School Board shall apply amounts transferred to it under subsection (6a) to reduce the estimates submitted by it to the Metropolitan Council.

(3) Sub-subclause 127 (7) (c) (i) (B) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 6, is repealed and the following substituted therefor:

(B) the quotient obtained by dividing the commercial assessment by 0.85, and

.

2.—(1) Clause 130j (1) (c) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed.

(2) Clause 130j (2) (b) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, is repealed and the following substituted therefor:

- (b) does not exceed the aggregate of the amounts that are required to be transferred to the board of education under sections 133 and 133a for public ele-

mentary school purposes or for secondary school purposes, as the case requires, by the council of the area municipality in which the board of education has jurisdiction and by the School Board.

(3) Subsection 130j (4) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(4) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for public elementary school purposes, the board of education,

Termination of employment, additional elementary school teachers

.

(4) Subsection 130j (5) of the said Act, as enacted by the Statutes of Ontario, 1983, chapter 9, section 8, exclusive of the clauses, is repealed and the following substituted therefor:

(5) Where the increase in the apportionment mentioned in subsection (3) exceeds the aggregate of the amounts mentioned in clause (2) (b) that are required to be transferred to the board of education for secondary school purposes, the board of education,

Termination of employment, secondary school teachers

.

3.—(1) Subsection 133 (4) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 9, section 9, is repealed and the following substituted therefor:

(4) If the estimates of a board of education are not approved in whole by the School Board, the board of education may submit to the council of the area municipality in which the board of education has jurisdiction the estimates of the board of education that were submitted to the School Board as adjusted in accordance with subsections (4a) and (4b) and a requisition of the amount of the estimates for public elementary school purposes and for secondary school purposes required to be raised by the council.

Estimates to council of area municipality

(4a) The estimates mentioned in subsection (4) shall be adjusted as follows:

Adjustment of estimates

1. The board of education shall adjust the estimates to include and to make due allowance for the revenues to be derived from the School Board pursuant to the estimates approved by the School Board.

2. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for public elementary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for public elementary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for public elementary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the Metropolitan Area for public elementary school purposes, and
 - iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for public elementary school purposes.
3. The board of education shall adjust the estimates so that the difference between the estimates of amounts required by the board of education for secondary school purposes and the revenues for such purposes to be derived by the board of education from the School Board pursuant to the estimates approved by the School Board shall not exceed a sum computed by,
 - i. dividing the estimates of the board of education for secondary school purposes approved by the School Board by the aggregate of the estimates of all the boards of education for secondary school purposes approved by the School Board,
 - ii. multiplying the quotient computed under subparagraph i by one mill in the dollar upon the total rateable property (as defined in section

127) in the Metropolitan Area for secondary school purposes, and

- iii. reducing the product computed under subparagraph ii by an amount equal to the amount of any deficit used to increase the apportionment to the area municipality under section 127 for secondary school purposes.

(4b) The estimates, as adjusted under subsection (4a) shall be further adjusted as follows: Further adjustment

1. The board of education shall divide the amount that, having regard for the computations required by subsection (4a), the board of education determines is necessary for its purposes by the amount of the estimates of the board of education that have been approved by the School Board as adjusted in accordance with subsection (4a), but excluding the adjustment in subparagraph iii of paragraph 2 or in subparagraph iii of paragraph 3, as the case requires, of subsection (4a).
2. The board of education shall multiply the quotient obtained under paragraph 1 by,
 - i. one and one-half mills in the dollar upon the total rateable property (as defined in section 127) in the area municipality for public elementary school purposes, or
 - ii. one mill in the dollar upon the total rateable property (as defined in section 127) in the area municipality for secondary school purposes.

(4c) A board of education that submits estimates and a requisition to the council of an area municipality under subsection (4) shall transmit to the School Board a copy of the estimates and requisition. Transmittal of copy to School Board

(4d) A board of education must submit its estimates and requisition under subsection (4) and transmit a copy under subsection (4b) within twenty days after the School Board notifies the board of education under subsection (2) of the extent to which its estimates have been approved by the School Board. Time limit

(2) Subsection 133 (5) of the said Act is repealed and the following substituted therefor:

Local levy

(5) The council of an area municipality shall levy and collect each year the moneys requisitioned for the year for public elementary school purposes or for secondary school purposes, or both, in accordance with subsection (4) by the board of education that has jurisdiction in the area municipality.

Where levy
equal to
need

(5a) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are equal to the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education, the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5).

Where levy
less than
need

(5b) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are less than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer the moneys it is required to levy and collect to the board of education from time to time as required by the board of education, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5); and
- (b) the School Board shall transfer to the board of education an amount equal to the difference between the amount the board of education has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education and the amount of the moneys the council of the area municipality is required to transfer under clause (a) to the board of education.

Where levy
greater
than need

(5c) Where the moneys to be levied and collected by the council of an area municipality under subsection (5) are greater than the amount the board of education that has jurisdiction in the area municipality has determined, having regard for the computations required by subsection (4a), is necessary for the purposes of the board of education,

- (a) the council shall transfer to the board of education from time to time as required by the board of edu-

cation, but not later than the 15th day of December in the year for which the moneys were requisitioned under subsection (5), amounts that in the aggregate do not exceed the amount the board of education has determined is necessary for its purposes; and

- (b) the council shall transfer to the School Board, at the same times as amounts are transferred under clause (a), amounts that in the aggregate are equal to the difference between the amount of moneys that the council is required to levy and collect and the aggregate of the amounts that the council is required under clause (a) to transfer to the board of education.

4. The said Act is amended by adding thereto the following sections:

133a.—(1) In this section, “Board of Education” means Interpretation
The Board of Education for the City of Toronto.

(2) Where in the years 1984, 1985, 1986 and 1987 the City of
Toronto,
transitional
Board of Education determines that more moneys are necessary for its public elementary school purposes than will be obtained under other sections in this Part, the Board of Education may submit to the council of the City of Toronto with the estimates submitted under subsection 133 (4) a requisition for such additional moneys.

(3) The maximum amount that may be requisitioned under Maximum
amount
subsection (2) is the amount of money that would be raised by a levy of,

- (a) 0.4 mills in the dollar in the year 1984;
- (b) 0.3 mills in the dollar in the year 1985;
- (c) 0.2 mills in the dollar in the year 1986; and
- (d) 0.1 mills in the dollar in the year 1987,

upon the total rateable property (as defined in section 127) in the City of Toronto for public elementary school purposes.

(4) The council of the City of Toronto shall levy and collect Levy
in the year the moneys requisitioned in accordance with subsections (2) and (3) for the year by the Board of Education and shall transfer the moneys to the Board of Education from time to time as required by the Board of Education, but not

later than the 15th day of December in the year for which the moneys were requisitioned.

Application
of moneys
transferred to
School Board

133b.—(1) The School Board shall apply moneys transferred to it in each year under section 133 by the councils of the area municipalities,

- (a) firstly, for the purpose of the transfers to boards of education that the School Board is required to make in the year under section 133; and
- (b) secondly, to reduce the estimates submitted by the School Board to the Metropolitan Council in the next year.

Reduction
of estimates
in current
year

(2) Where, in any year, the School Board complies with clause (1) (a) before submitting its estimates to the Metropolitan Council, the School Board may apply any amount remaining out of the moneys transferred to it under section 133 to reduce its estimates in the year instead of the next year.

Increase of
estimates in
current year

(3) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has not submitted its estimates for the year to the Metropolitan Council, the School Board may include in the estimates the amount that it considers necessary to enable it to comply with clause (1) (a).

Short term
borrowing

(4) Where, in any year, sufficient moneys are not transferred to the School Board under section 133 to enable it to comply with clause (1) (a) and the School Board has submitted its estimates for the year to the Metropolitan Council, the School Board may borrow the moneys required to enable it to comply with clause (1) (a) by promissory note until sufficient moneys are transferred to the School Board under section 133 or by the Metropolitan Council.

Elementary
school
purposes

(5) Moneys levied and collected upon requisitions for public elementary school purposes shall be applied under subsection (1) in respect of public elementary school purposes.

Secondary
school
purposes

(6) Moneys levied and collected upon requisitions for secondary school purposes shall be applied under subsection (1) in respect of secondary school purposes.

5. This Act shall be deemed to have come into force on the 1st day of January, 1984. Commence-
ment

6. The short title of this Act is the *Municipality of Metropolitan Toronto Amendment Act, 1984*. Short title

ON

Government
Publications

Bill 45

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow

Minister of Transportation and Communications

1st Reading April 24th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTES

SECTION 1. The new clauses are being added to the section authorizing the making of regulations. In addition, the authority to charge interest and impose penalties in respect of dishonoured cheques is given.

SECTION 2. The statement of purpose is self-explanatory.

SECTION 3. The new subsection 18 (2b) provides that a suspended driver's licence is not to be considered as a valid licence at the end of the suspension period until the prescribed administration fee has been paid.

The remaining changes prohibit the driving of a vehicle with air brakes unless the licence of the driver is endorsed to permit it.

SECTION 4. Subsection 26 (1) of the Act is recast to include drivers of street cars and motorized snow vehicles. The amendment to subsection 26 (2) is a technical correction.

SECTION 5. Section 30a of the Act deals with spot checks of motor vehicles and breathalyzer tests for drivers. The effect of the new provision is to include motorized snow vehicles and their operators.

SECTION 6. The change is a housekeeping one to clarify a technical matter.

SECTION 7. The permitted length of vehicles, in combination, is being increased from twenty-one metres to twenty-three. Subsection 92 (6b) is new.

SECTION 8. The new provision adds another vehicle that is exempt from speed limits.

SECTION 9. Part IX of the Act sets out rules of the road. The new definitions recognize changing technology in traffic signals.

SECTIONS 10, 11 and 13. Sections 115, 116 and 119 of the Act are recast to clarify the meaning and do not effect a substantive change.

SECTION 12. The amendment changes an internal reference and is necessary because of the recasting of section 116 of the Act (section 11 of the Bill).

SECTION 14. The new provision is self-explanatory.

SECTION 15. The new provision recognizes that some vehicles are not able to strictly comply with the Act because of their length.

SECTION 16. The section dealing with traffic control systems is rewritten chiefly to:

1. clarify the existing law,
2. standardize technically related terminology,
3. permit the dealing with technical matters by way of regulations.

The section, as recast, does not substantively change the law but tries to take in account situations that did not exist when the section was originally drafted.

SECTIONS 17 and 18. The changes are wording changes to maintain consistency with other amendments made by the Bill.

SECTION 19. The section dealing with school buses is rewritten. The definitions of "children" and "school" are new. The requirement to stop is extended to apply to street car operators as well as other drivers. Chrome yellow buses may be used for charter like

trips for children. In addition, some provisions have been rephrased for simplicity or clarification.

SECTION 20. The definition of a school crossing guard is amended by the addition of clause (b).

SECTION 21. Currently, accidents resulting in damages in excess of \$400 must be reported. This amount is being changed to an amount prescribed by regulation.

Bill 45

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 5 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (d) providing for the payment of administrative fees for the reinstatement of suspended licences and for the exemption from payment of such fees on the basis of grounds for suspension;
- (e) providing for the payment of administrative fees for handling dishonoured cheques tendered as payment for the issue, renewal, replacement, transfer, validation or reinstatement of permits, licences and number plates;
- (f) prescribing a rate of interest for purposes of subsection (2), when interest starts to run and the method of calculating the interest;
- (g) prescribing penalties for the purposes of subsection (2) and the method of determining the amount of any penalty.

(2) The said section 5 is further amended by adding thereto the following subsection:

(2) Where a cheque tendered as payment for any fee is dishonoured, interest at a prescribed rate may be charged on the amount of the cheque and a penalty may be imposed.

Interest and penalties when cheque dishonoured

2. Part III of the said Act is amended by adding thereto the following section:

17a. The purpose of this Part is to protect the public by ensuring that the privilege of driving on a highway is granted

Driving a privilege

to, and retained by, only those persons who demonstrate that they are likely to drive safely.

3.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, is further amended by adding thereto the following subsections:

Air brake
endorsement

(1b) No person shall drive, on a highway, a vehicle equipped with air brakes unless the licence of that person is endorsed to permit the driving of a vehicle of that class equipped with air brakes.

Idem

(1c) The Minister shall endorse the driver's licence of every person who applies therefor and meets the requirements prescribed by the regulations with the endorsement referred to in subsection (1b).

(2) The said section 18 is further amended by adding thereto the following subsection:

Contingent
validity

(2b) Where a driver's licence issued under subsection (2) has been suspended, it is not valid for purposes of subsection (1) until the prescribed administrative fee for its reinstatement has been paid.

(3) Subsection 18 (7) of the said Act is amended by adding thereto the following clause:

(h) prescribing the requirements to be met by an applicant for an endorsement to a driver's licence for any class of vehicle.

4.—(1) Subsection 26 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 11, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or a street car or a motorized snow vehicle or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or a motorized snow vehicle or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act or a motorized snow vehicle is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months;

- (b) upon the first subsequent conviction, six months;
and
- (c) upon an additional subsequent conviction, three
years,

provided that where an order has been made before the 26th day of April, 1976 under subsection 238 (1) of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

R.S.C. 1970,
c. C-34

(2) Subsection 26 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a person who has previously been convicted of an offence mentioned in subsection (1) is convicted of the same or any other offence mentioned in subsection (1) within five years after the previous conviction, the last conviction shall be deemed to be a subsequent conviction for the purposes of clauses (1) (b) and (c).

Subsequent
offence
within five-
year period

5. Section 30a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is amended by adding thereto the following subsection:

(13) In this section,

Interpretation

- (a) “driver’s licence” includes a motorized snow vehicle operator’s licence; and
- (b) “motor vehicle” includes a motorized snow vehicle.

6. Clause 74 (3) (a) of the said Act is repealed and the following substituted therefor:

- (a) the vehicle has been inspected by a motor vehicle inspection mechanic in the motor vehicle inspection station and the vehicle complies with the inspection requirements and performance standards prescribed by the regulations; and

.

7. Subsection 92 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 4, is repealed and the following substituted therefor:

Length of
vehicle

(6) Subject to section 93, no vehicle, other than a fire apparatus, a semi-trailer or a bus, including load, shall exceed the length of 12.5 metres while on a highway.

Length of
combination

(6a) No combination of vehicles, including load, coupled together shall exceed the total length of twenty-three metres while on a highway.

Idem

(6b) No combination of vehicles shall be operated on a highway where the distance from the back of the driver's compartment of the tractor to the rearmost part of the combination of vehicles exceeds nineteen metres, unless the distance from the centre of the kingpin of the foremost trailer to the rearmost part of the combination of vehicles is 16.75 metres or less.

Interpretation

(6c) For the purposes of subsection (6b), a sleeping compartment shall be considered as part of the driver's compartment.

8. Subsection 109 (12) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) an ambulance as defined in clause 43 (a) while responding to an emergency call or being used to transport a patient or injured person in an emergency situation.

9. Part IX of the said Act is amended by adding thereto the following section:

Interpretation

113a. In this Part,

- (a) "indication" means a signal lens display that is activated by internal illumination;
- (b) "traffic control signal" means that part of a traffic control signal system that consists of one set of no less than three coloured lenses, red, amber and green, mounted on a frame and commonly referred to as a signal head;
- (c) "traffic control signal system" means all of the signal equipment making up the installation at any location.

10. Section 115 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 23, is repealed and the following substituted therefor:

115.—(1) This section applies where an intersection is not controlled by a stop or yield sign or a traffic control signal system. Application

(2) Every driver approaching an intersection shall yield the right of way to any vehicle in the intersection that has entered it from an intersecting highway. Right of way

(3) When two vehicles enter an intersection from intersecting highways at approximately the same time, the driver on the left shall yield the right of way to the vehicle on the right. Idem

(4) In this section, “driver” includes street car operator and “vehicle” includes street car. Interpretation

11. Section 116 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 24, is repealed and the following substituted therefor:

116.—(1) Every driver or street car operator approaching a stop sign at an intersection, Stop at through highway

(a) shall stop his vehicle or street car at a marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and

(b) shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

(2) Every driver or street car operator approaching, on another highway, an intersection referred to in subsection (1), shall yield the right of way to every driver or operator who has complied with the requirements of subsection (1). Acquiring right of way

12. Subsection 118 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 25, is further amended by striking out “116 (a)” in the fourth line and inserting in lieu thereof “116 (1) (a)”.

13. Section 119 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 14 and 1983, chapter 63, section 26, is repealed and the following substituted therefor:

119.—(1) Every driver or street car operator entering a highway from a private road or driveway shall yield the right Right of way on entering highway from private road

of way to all traffic approaching on the highway so closely that to enter would constitute an immediate hazard.

Exception
to subs. (1)

(2) Subsection (1) does not apply to a driver or operator entering a highway from a private road or driveway controlled by a traffic control signal of a traffic control signal system.

14. Section 120 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(5) No municipal by-law that purports to designate a pedestrian crossover on a highway on which the maximum speed limit is in excess of 60 kilometres per hour is valid.

15. Section 121 of the said Act is amended by adding thereto the following subsection:

Long
vehicles

(7) Where, because of the length of a vehicle or combination of vehicles, a turn can not be made within the confines of the lanes referred to in subsection (2), (3), (5) or (6), a driver, when making such a turn, is not in contravention of any such subsection if he complies with the applicable provision as closely as practicable.

16. Section 124 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 15 and 1983, chapter 63, section 28, is repealed and the following substituted therefor:

Interpretation

124.—(1) In this section,

(a) “driver” includes an operator of a street car;

(b) “emergency vehicle” means,

(i) a fire department vehicle as defined in clause 43 (b) while proceeding to a fire or responding to, but not while returning from, a fire alarm or other emergency call,

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,

(iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or

(iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital,

on which a siren is continuously sounding and from which intermittent flashes of red light are visible from all directions;

- (c) “intersection” includes any portion of a highway indicated by markings on the surface of the roadway as a crossing place for pedestrians;
- (d) “pedestrian” includes a person in a wheelchair;
- (e) “vehicle” includes a street car.

(2) For purposes of this section, where a highway includes two roadways fifteen metres or more apart crossed by an intersecting roadway, each crossing shall be considered a separate intersection. Idem

(3) The fifteen metres referred to in subsection (2) shall include exclusive left turn lanes where they exist. Idem

(4) A driver who is directed by a traffic signal erected at an intersection to stop his vehicle shall stop, Where to stop—
intersection

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, immediately before entering the intersection.

(5) A driver who is directed by a traffic signal erected at a location other than at an intersection to stop his vehicle shall stop, Where to stop—
non-inter-
section

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, not less than five metres before the nearest traffic control signal.

(6) When under this section a driver is permitted to proceed, the driver shall yield the right of way to pedestrians lawfully within a crosswalk. Yielding to
pedestrians

- Yielding to traffic (7) When under this section a driver is permitted to proceed, he shall yield the right of way to traffic lawfully using an intersection or, where signals are erected where a private road or driveway meets a highway, lawfully using the area controlled by the signals.
- Signs (8) The provisions of this section are subject to any sign, as prescribed by the regulations, forbidding a left turn, right turn, through movement or combination thereof that is posted at an intersection and every driver shall obey every such sign.
- Obeying lane lights (9) Every driver shall obey every traffic control signal that applies to the lane that he is in.
- Green light (10) A driver approaching a traffic control signal showing a circular green indication and facing the indication may proceed forward or turn left or right unless otherwise directed.
- Flashing green (11) A driver approaching a traffic control signal showing a circular flashing green indication or a solid or flashing left turn green arrow indication in conjunction with a circular green indication and facing the indication may, notwithstanding subsection 121 (4), proceed forward or turn left or right unless otherwise directed.
- Green arrow (12) Every driver approaching a traffic control signal showing one or more green arrow indications only or in combination with a circular red or circular amber indication and facing the indication may proceed only to follow the direction shown by the arrow.
- Amber light (13) Every driver approaching a traffic control signal showing a circular amber indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution.
- Amber arrow (14) Every driver approaching a traffic control signal showing an amber arrow indication only or in combination with another indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution to follow the direction shown by the amber arrow indication.
- Flashing amber (15) Every driver approaching a traffic control signal showing a flashing circular amber indication and facing the indication may proceed with caution.
- Red light (16) Every driver approaching a traffic control signal showing a circular red indication and facing the indication shall

stop his vehicle and shall not proceed until a green indication is shown.

(17) Notwithstanding subsection (16) and subject to subsection (12), a driver, after stopping his vehicle and yielding the right of way to traffic lawfully approaching so closely that to proceed would constitute an immediate hazard, may,

Exception
—turn

(a) turn to the right; or

(b) turn to the left from a one-way street into a one-way street,

without a green indication being shown.

(18) Notwithstanding subsection (16), a driver of an emergency vehicle, after stopping the vehicle, may proceed without a green indication being shown if it is safe to do so.

Exception
—emergency vehicle

(19) Every driver approaching a traffic control signal and facing a flashing circular red indication shall stop his vehicle, shall yield the right of way to traffic approaching so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

Stopping
at flashing
red light

(20) Where portions of a roadway are marked for pedestrian use, no pedestrian shall cross the roadway except within a portion so marked.

Pedestrian
crossing

(21) Subject to subsections (22) and (25), a pedestrian approaching a traffic control signal showing a circular green indication or a straight-ahead green arrow indication and facing the indication may cross the roadway.

Pedestrian
—green light

(22) No pedestrian approaching a traffic control signal and facing a flashing circular green indication or a solid or a flashing left turn arrow indication in conjunction with a circular green indication shall enter the roadway.

Pedestrian
—stopping at
flashing
green light

(23) No pedestrian approaching a traffic control signal and facing a red or amber indication shall enter the roadway.

Pedestrian
—stopping
at red or
amber light

(24) Where pedestrian control signals are installed and show a “walk” indication, every pedestrian facing the indication may cross the roadway in the direction of the indication notwithstanding subsections (22) and (23).

Pedestrian
control
signals
—walk

(25) No pedestrian approaching pedestrian control signals and facing a solid or flashing “don’t walk” indication shall enter the roadway.

Pedestrian
control
signals
—don’t walk

Pedestrian
right of way

(26) Every pedestrian who lawfully enters a roadway in order to cross may continue the crossing as quickly as reasonably possible notwithstanding a change in the indication he is facing and, for purposes of the crossing, has the right of way over vehicles.

Symbols

(27) The “walk” or “don’t walk” pedestrian control indications referred to in this section may be shown as symbols as prescribed by the regulations.

Erection of
traffic control
signals

(28) No traffic control signal system or traffic control signals used in conjunction with a traffic control system shall be erected or installed except in accordance with an approval obtained from the Minister or an official of the Ministry authorized by the Minister in writing to grant such approval.

Regulations

(29) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards or specifications of a traffic control signal system;
- (b) prescribing the location of traffic control signals and signal systems;
- (c) prescribing standards for operating and maintaining a traffic control signal system;
- (d) regulating the use and operation of traffic control signals and signal systems.

17. Subsections 124a (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 16 and amended by the Statutes of Ontario, 1983, chapter 63, section 29, are repealed and the following substituted therefor:

Blocking
intersection

(1) The council of a municipality may by by-law prohibit a driver or street car operator approaching, at an intersection, a traffic control signal showing a circular green or green arrow indication from entering the intersection unless traffic in front of him is moving in a manner that would reasonably lead him to believe he can clear the intersection before the signal indication changes to a circular red indication.

Idem

(2) A by-law passed under subsection (1) does not apply to a driver or street car operator who enters an intersection for the purpose of turning to the right or left into an intersecting highway and signals his intention to make such turn prior to entering the intersection.

18. Section 125 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 30, is repealed and the following substituted therefor:

125.—(1) Notwithstanding subsection 124 (28), during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway or any person authorized by that authority.

Portable
signal lights

(2) A driver or a street car operator approaching a portable lane control signal showing a circular green indication and facing the indication may proceed.

Green light

(3) Every driver or street car operator approaching a portable lane control signal showing a circular amber indication and facing such indication shall stop his vehicle or street car if he can do so safely, otherwise he may proceed with caution.

Amber light

(4) Every driver or street car operator approaching a portable lane control signal showing a circular red indication and facing the indication shall stop his vehicle or street car and shall not proceed until a circular green indication is shown.

Red light

(5) A driver or operator who is required, under this section, to stop his vehicle or street car shall do so at a sign or marking on the highway indicating where a stop is to be made or, if there is no such sign or marking, not less than five metres before the nearest portable lane control signal.

Where to
stop

(6) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system.

Removing,
etc., port-
able system

(7) The Lieutenant Governor in Council may make regulations,

Regulations
re portable
lane control
devices

- (a) prescribing standards or specifications for portable lane control signal systems;
- (b) prescribing locations where portable lane control signal systems may be erected; and
- (c) prescribing standards for operating and maintaining portable lane control signal systems.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 5 and 1983, chapter 63, section 34, is repealed and the following substituted therefor:

Interpretation

151.—(1) In this section,

(a) “children” means,

(i) persons under the age of eighteen, and

(ii) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;

(b) “school” does not include a post-secondary school educational institution;

(c) “school bus” means a chrome yellow bus that is used for the transportation of,

(i) children, or

(ii) mentally retarded adults to or from a training centre,

that bears on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem

(2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit issued under section 7 for which a bus fee was paid.

Prohibition

(3) No bus, other than a school bus, shall be painted chrome yellow.

Idem

(4) No motor vehicle, other than a school bus, shall bear the words “do not pass when signals flashing” or the words “school bus”.

Duty of driver when school bus stopped on highway

(5) Every driver or street car operator when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its red signal-lights flashing, shall stop before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

Idem

(6) Every driver or street car operator when overtaking on a highway a stopped school bus that has its red signal-lights flashing, shall stop at least 20 metres before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

(7) Subject to subsection (10), every driver of a school bus on a highway,

Duty of
school bus
driver

- (a) who is about to stop for the purpose of receiving or discharging children or mentally retarded adults, shall actuate the red signal-lights on the bus;
- (b) as soon as the bus is stopped, for a purpose set out in clause (a), shall actuate the school bus stop arm; and
- (c) while the bus is stopped, for a purpose set out in clause (a), shall continue the signal-lights and stop arm in operation,

and subsection 147 (1) does not apply to a driver who stops in accordance with this subsection.

(8) Where a school bus driver has stopped, on a highway that does not have a median strip, for a purpose set out in clause (7) (a), the driver shall continue the signal-lights and stop arm in operation until all passengers leaving the bus who are crossing the highway have completed the crossing.

Idem

(9) Subsections (7) and (8) do not apply where the bus is stopped at a place where a signal-light traffic control system is in operation.

Exception

(10) In accordance with the regulations, a council of a municipality may by by-law designate school bus loading zones on highways under its jurisdiction to which subsection (7) does not apply.

School bus
loading zones

(11) No by-law passed under subsection (10) becomes effective until the highways or portions thereof affected are marked to comply with this Act and the regulations.

Signing

(12) No person shall actuate the red signal-lights or the stop arm on the school bus on a highway under any circumstances other than those set out in subsection (7).

Actuating red
signal-lights,
stop arm

(13) No person shall stop a school bus on a highway for the purpose of receiving or discharging children on a highway,

School bus
stopping at
designated
loading zones

- (a) opposite a designated school bus loading zone; or
- (b) at a designated school bus loading zone, except as closely as practicable to the right curb or edge of the roadway.

When words
to be
covered

(14) The words on a school bus “do not pass when signals flashing” and “school bus” shall be concealed while the bus is operated on a highway during a trip that does not involve, at any time during that trip, the transportation of mentally retarded adults to or from a training centre or of children.

When words
to be
exposed

(15) Every school bus transporting, on a highway, children to or from school or mentally retarded adults to or from a training centre shall have the words “school bus” and “do not pass when signals flashing” exposed.

Optional

(16) Where a school bus is transporting children other than to or from a school, the words “school bus” and “do not pass when signals flashing” may be exposed or concealed.

Regulations
re school
buses

(17) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting mentally retarded adults to or from a training centre;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or mentally retarded adults;
- (h) requiring the retention of prescribed books within vehicles and prescribing the information to be contained and the entries to be recorded in the books.

(18) Any regulation made under subsection (17) may be general or particular in its application. Scope of regulations

(19) Every person who contravenes subsection (5) or (6) is guilty of an offence and on conviction is liable, Penalty

(a) for a first offence, to a fine of not less than \$100 and not more than \$500; and

(b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(20) An offence referred to in subsection (19) committed five years or longer after the date of a previous conviction for either of the offences referred to in subsection (19) is not a subsequent offence for the purpose of clause (19) (b). Time limit for subsequent offence

20. Subsection 152 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, “school crossing guard” means a person sixteen years of age or older who is directing the movement of children across a highway and who is, Interpretation

(a) employed by a municipality; or

(b) employed by a corporation under contract with a municipality to provide the services of a school crossing guard.

21.—(1) Subsection 173 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 40, is further amended by striking out “\$400” in the fourth line and inserting in lieu thereof “an amount prescribed by regulation”.

(2) The said section 173 is amended by adding thereto the following subsection:

(5) The Lieutenant Governor in Council may make regulations prescribing the amount of property damage for the purposes of subsection (1). Regulations as to amount of property damage

22.—(1) This Act, except subsections 3 (1) and (2), section 4 and sections 9 to 18 and 21, comes into force on the day it receives Royal Assent. Commencement

Idem

(2) Subsections 3 (1) and (2), section 4 and sections 9 to 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Section 21 comes into force on the 1st day of January, 1985.

Short title

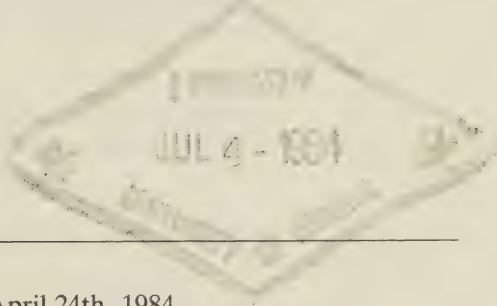
23. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

Bill 45

(Chapter 21
Statutes of Ontario, 1984)

An Act to amend the Highway Traffic Act

The Hon. J. W. Snow
Minister of Transportation and Communications



<i>1st Reading</i>	April 24th, 1984
<i>2nd Reading</i>	June 7th, 1984
<i>3rd Reading</i>	June 12th, 1984
<i>Royal Assent</i>	June 13th, 1984

Bill 45

1984

An Act to amend the Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) Section 5 of the *Highway Traffic Act*, being chapter 198 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following clauses:

- (d) providing for the payment of administrative fees for the reinstatement of suspended licences and for the exemption from payment of such fees on the basis of grounds for suspension;
- (e) providing for the payment of administrative fees for handling dishonoured cheques tendered as payment for the issue, renewal, replacement, transfer, validation or reinstatement of permits, licences and number plates;
- (f) prescribing a rate of interest for purposes of subsection (2), when interest starts to run and the method of calculating the interest;
- (g) prescribing penalties for the purposes of subsection (2) and the method of determining the amount of any penalty.

(2) The said section 5 is further amended by adding thereto the following subsection:

(2) Where a cheque tendered as payment for any fee is dishonoured, interest at a prescribed rate may be charged on the amount of the cheque and a penalty may be imposed.

Interest and penalties when cheque dishonoured

2. Part III of the said Act is amended by adding thereto the following section:

17a. The purpose of this Part is to protect the public by ensuring that the privilege of driving on a highway is granted

Driving a privilege

to, and retained by, only those persons who demonstrate that they are likely to drive safely.

3.—(1) Section 18 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 7, is further amended by adding thereto the following subsections:

Air brake
endorsement

(1b) No person shall drive, on a highway, a vehicle equipped with air brakes unless the licence of that person is endorsed to permit the driving of a vehicle of that class equipped with air brakes.

Idem

(1c) The Minister shall endorse the driver's licence of every person who applies therefor and meets the requirements prescribed by the regulations with the endorsement referred to in subsection (1b).

(2) The said section 18 is further amended by adding thereto the following subsection:

Contingent
validity

(2b) Where a driver's licence issued under subsection (2) has been suspended, it is not valid for purposes of subsection (1) until the prescribed administrative fee for its reinstatement has been paid.

(3) Subsection 18 (7) of the said Act is amended by adding thereto the following clause:

(h) prescribing the requirements to be met by an applicant for an endorsement to a driver's licence for any class of vehicle.

4.—(1) Subsection 26 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 11, is repealed and the following substituted therefor:

Suspension
on conviction
for certain
offences
R.S.C. 1970,
c. C-34

(1) The driver's licence of a person who is convicted of an offence under section 203, 204 or 219 of the *Criminal Code* (Canada) committed by means of a motor vehicle as defined in this Act or a street car or a motorized snow vehicle or of an offence under section 233, 234 or 236 of the *Criminal Code* (Canada) committed while driving or having the care or control of a motor vehicle as defined in this Act or a motorized snow vehicle or of an offence under section 234.1 or 235 of the *Criminal Code* (Canada) committed in relation to the driving or care or control of a motor vehicle as defined in this Act or a motorized snow vehicle is thereupon and hereby suspended for a period of,

(a) upon the first conviction, three months;

- (b) upon the first subsequent conviction, six months;
and
- (c) upon an additional subsequent conviction, three
years,

provided that where an order has been made before the 26th day of April, 1976 under subsection 238 (1) of the *Criminal Code* (Canada) prohibiting a person from driving a motor vehicle for any longer period, the licence shall remain suspended during such longer period.

R.S.C. 1970,
c. C-34

(2) Subsection 26 (2) of the said Act is repealed and the following substituted therefor:

(2) Where a person who has previously been convicted of an offence mentioned in subsection (1) is convicted of the same or any other offence mentioned in subsection (1) within five years after the previous conviction, the last conviction shall be deemed to be a subsequent conviction for the purposes of clauses (1) (b) and (c).

Subsequent
offence
within five-
year period

5. Section 30a of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 72, section 1, is amended by adding thereto the following subsection:

(13) In this section,

Interpretation

- (a) “driver’s licence” includes a motorized snow vehicle operator’s licence; and
- (b) “motor vehicle” includes a motorized snow vehicle.

6. Clause 74 (3) (a) of the said Act is repealed and the following substituted therefor:

- (a) the vehicle has been inspected by a motor vehicle inspection mechanic in the motor vehicle inspection station and the vehicle complies with the inspection requirements and performance standards prescribed by the regulations; and

.

7. Subsection 92 (6) of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 4, is repealed and the following substituted therefor:

Length of
vehicle

(6) Subject to section 93, no vehicle, other than a fire apparatus, a semi-trailer or a bus, including load, shall exceed the length of 12.5 metres while on a highway.

Length of
combination

(6a) No combination of vehicles, including load, coupled together shall exceed the total length of twenty-three metres while on a highway.

Idem

(6b) No combination of vehicles shall be operated on a highway where the distance from the back of the driver's compartment of the tractor to the rearmost part of the combination of vehicles exceeds nineteen metres, unless the distance from the centre of the kingpin of the foremost trailer to the rearmost part of the combination of vehicles is 16.75 metres or less.

Interpretation

(6c) For the purposes of subsection (6b), a sleeping compartment shall be considered as part of the driver's compartment.

8. Subsection 109 (12) of the said Act is amended by striking out "or" at the end of clause (a), by adding "or" at the end of clause (b) and by adding thereto the following clause:

- (c) an ambulance as defined in clause 43 (a) while responding to an emergency call or being used to transport a patient or injured person in an emergency situation.

9. Part IX of the said Act is amended by adding thereto the following section:

Interpretation

113a. In this Part,

- (a) "indication" means a signal lens display that is activated by internal illumination;
- (b) "traffic control signal" means that part of a traffic control signal system that consists of one set of no less than three coloured lenses, red, amber and green, mounted on a frame and commonly referred to as a signal head;
- (c) "traffic control signal system" means all of the signal equipment making up the installation at any location.

10. Section 115 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 23, is repealed and the following substituted therefor:

115.—(1) This section applies where an intersection is not controlled by a stop or yield sign or a traffic control signal system. Application

(2) Every driver approaching an intersection shall yield the right of way to any vehicle in the intersection that has entered it from an intersecting highway. Right of way

(3) When two vehicles enter an intersection from intersecting highways at approximately the same time, the driver on the left shall yield the right of way to the vehicle on the right. Idem

(4) In this section, “driver” includes street car operator and “vehicle” includes street car. Interpretation

11. Section 116 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 24, is repealed and the following substituted therefor:

116.—(1) Every driver or street car operator approaching a stop sign at an intersection, Stop at through highway

(a) shall stop his vehicle or street car at a marked stop line or, if none, then immediately before entering the nearest crosswalk or, if none, then immediately before entering the intersection; and

(b) shall yield the right of way to traffic in the intersection or approaching the intersection on another highway so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

(2) Every driver or street car operator approaching, on another highway, an intersection referred to in subsection (1), shall yield the right of way to every driver or operator who has complied with the requirements of subsection (1). Acquiring right of way

12. Subsection 118 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 25, is further amended by striking out “116 (a)” in the fourth line and inserting in lieu thereof “116 (1) (a)”.

13. Section 119 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 14 and 1983, chapter 63, section 26, is repealed and the following substituted therefor:

119.—(1) Every driver or street car operator entering a highway from a private road or driveway shall yield the right Right of way on entering highway from private road

of way to all traffic approaching on the highway so closely that to enter would constitute an immediate hazard.

Exception
to subs. (1)

(2) Subsection (1) does not apply to a driver or operator entering a highway from a private road or driveway controlled by a traffic control signal of a traffic control signal system.

14. Section 120 of the said Act is amended by adding thereto the following subsection:

Municipal
by-laws

(5) No municipal by-law that purports to designate a pedestrian crossover on a highway on which the maximum speed limit is in excess of 60 kilometres per hour is valid.

15. Section 121 of the said Act is amended by adding thereto the following subsection:

Long
vehicles

(7) Where, because of the length of a vehicle or combination of vehicles, a turn can not be made within the confines of the lanes referred to in subsection (2), (3), (5) or (6), a driver, when making such a turn, is not in contravention of any such subsection if he complies with the applicable provision as closely as practicable.

16. Section 124 of the said Act, as amended by the Statutes of Ontario, 1981, chapter 48, section 15 and 1983, chapter 63, section 28, is repealed and the following substituted therefor:

Interpretation

124.—(1) In this section,

(a) “driver” includes an operator of a street car;

(b) “emergency vehicle” means,

(i) a fire department vehicle as defined in clause 43 (b) while proceeding to a fire or responding to, but not while returning from, a fire alarm or other emergency call,

(ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,

(iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or

(iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital,

on which a siren is continuously sounding and from which intermittent flashes of red light are visible from all directions;

- (c) “intersection” includes any portion of a highway indicated by markings on the surface of the roadway as a crossing place for pedestrians;
- (d) “pedestrian” includes a person in a wheelchair;
- (e) “vehicle” includes a street car.

(2) For purposes of this section, where a highway includes two roadways fifteen metres or more apart crossed by an intersecting roadway, each crossing shall be considered a separate intersection. Idem

(3) The fifteen metres referred to in subsection (2) shall include exclusive left turn lanes where they exist. Idem

(4) A driver who is directed by a traffic signal erected at an intersection to stop his vehicle shall stop, Where to stop—
intersection

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, immediately before entering the intersection.

(5) A driver who is directed by a traffic signal erected at a location other than at an intersection to stop his vehicle shall stop, Where to stop—
non-inter-
section

- (a) at the sign or roadway marking indicating where the stop is to be made;
- (b) if there is no sign or marking, immediately before entering the nearest crosswalk; or
- (c) if there is no sign, marking or crosswalk, not less than five metres before the nearest traffic control signal.

(6) When under this section a driver is permitted to proceed, the driver shall yield the right of way to pedestrians lawfully within a crosswalk. Yielding to
pedestrians

Yielding to
traffic

(7) When under this section a driver is permitted to proceed, he shall yield the right of way to traffic lawfully using an intersection or, where signals are erected where a private road or driveway meets a highway, lawfully using the area controlled by the signals.

Signs

(8) The provisions of this section are subject to any sign, as prescribed by the regulations, forbidding a left turn, right turn, through movement or combination thereof that is posted at an intersection and every driver shall obey every such sign.

Obeying
lane lights

(9) Every driver shall obey every traffic control signal that applies to the lane that he is in.

Green light

(10) A driver approaching a traffic control signal showing a circular green indication and facing the indication may proceed forward or turn left or right unless otherwise directed.

Flashing
green

(11) A driver approaching a traffic control signal showing a circular flashing green indication or a solid or flashing left turn green arrow indication in conjunction with a circular green indication and facing the indication may, notwithstanding subsection 121 (4), proceed forward or turn left or right unless otherwise directed.

Green arrow

(12) Every driver approaching a traffic control signal showing one or more green arrow indications only or in combination with a circular red or circular amber indication and facing the indication may proceed only to follow the direction shown by the arrow.

Amber light

(13) Every driver approaching a traffic control signal showing a circular amber indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution.

Amber arrow

(14) Every driver approaching a traffic control signal showing an amber arrow indication only or in combination with another indication and facing the indication shall stop his vehicle if he can do so safely, otherwise he may proceed with caution to follow the direction shown by the amber arrow indication.

Flashing
amber

(15) Every driver approaching a traffic control signal showing a flashing circular amber indication and facing the indication may proceed with caution.

Red light

(16) Every driver approaching a traffic control signal showing a circular red indication and facing the indication shall

stop his vehicle and shall not proceed until a green indication is shown.

(17) Notwithstanding subsection (16) and subject to subsection (12), a driver, after stopping his vehicle and yielding the right of way to traffic lawfully approaching so closely that to proceed would constitute an immediate hazard, may,

Exception
—turn

- (a) turn to the right; or
- (b) turn to the left from a one-way street into a one-way street,

without a green indication being shown.

(18) Notwithstanding subsection (16), a driver of an emergency vehicle, after stopping the vehicle, may proceed without a green indication being shown if it is safe to do so.

Exception
—emergency vehicle

(19) Every driver approaching a traffic control signal and facing a flashing circular red indication shall stop his vehicle, shall yield the right of way to traffic approaching so closely that to proceed would constitute an immediate hazard and, having so yielded the right of way, may proceed.

Stopping
at flashing
red light

(20) Where portions of a roadway are marked for pedestrian use, no pedestrian shall cross the roadway except within a portion so marked.

Pedestrian
crossing

(21) Subject to subsections (22) and (25), a pedestrian approaching a traffic control signal showing a circular green indication or a straight-ahead green arrow indication and facing the indication may cross the roadway.

Pedestrian
—green light

(22) No pedestrian approaching a traffic control signal and facing a flashing circular green indication or a solid or a flashing left turn arrow indication in conjunction with a circular green indication shall enter the roadway.

Pedestrian
—stopping at
flashing
green light

(23) No pedestrian approaching a traffic control signal and facing a red or amber indication shall enter the roadway.

Pedestrian
—stopping
at red or
amber light

(24) Where pedestrian control signals are installed and show a “walk” indication, every pedestrian facing the indication may cross the roadway in the direction of the indication notwithstanding subsections (22) and (23).

Pedestrian
control
signals
—walk

(25) No pedestrian approaching pedestrian control signals and facing a solid or flashing “don’t walk” indication shall enter the roadway.

Pedestrian
control
signals
—don’t walk

Pedestrian
right of way

(26) Every pedestrian who lawfully enters a roadway in order to cross may continue the crossing as quickly as reasonably possible notwithstanding a change in the indication he is facing and, for purposes of the crossing, has the right of way over vehicles.

Symbols

(27) The “walk” or “don’t walk” pedestrian control indications referred to in this section may be shown as symbols as prescribed by the regulations.

Erection of
traffic control
signals

(28) No traffic control signal system or traffic control signals used in conjunction with a traffic control system shall be erected or installed except in accordance with an approval obtained from the Minister or an official of the Ministry authorized by the Minister in writing to grant such approval.

Regulations

(29) The Lieutenant Governor in Council may make regulations,

- (a) prescribing the standards or specifications of a traffic control signal system;
- (b) prescribing the location of traffic control signals and signal systems;
- (c) prescribing standards for operating and maintaining a traffic control signal system;
- (d) regulating the use and operation of traffic control signals and signal systems.

17. Subsections 124a (1) and (2) of the said Act, as enacted by the Statutes of Ontario, 1981, chapter 48, section 16 and amended by the Statutes of Ontario, 1983, chapter 63, section 29, are repealed and the following substituted therefor:

Blocking
intersection

(1) The council of a municipality may by by-law prohibit a driver or street car operator approaching, at an intersection, a traffic control signal showing a circular green or green arrow indication from entering the intersection unless traffic in front of him is moving in a manner that would reasonably lead him to believe he can clear the intersection before the signal indication changes to a circular red indication.

Idem

(2) A by-law passed under subsection (1) does not apply to a driver or street car operator who enters an intersection for the purpose of turning to the right or left into an intersecting highway and signals his intention to make such turn prior to entering the intersection.

18. Section 125 of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 30, is repealed and the following substituted therefor:

125.—(1) Notwithstanding subsection 124 (28), during construction or maintenance activities on or adjacent to a highway, a portable lane control signal system may be operated on the highway in accordance with the regulations by the authority having jurisdiction and control of the highway or any person authorized by that authority.

Portable
signal lights

(2) A driver or a street car operator approaching a portable lane control signal showing a circular green indication and facing the indication may proceed.

Green light

(3) Every driver or street car operator approaching a portable lane control signal showing a circular amber indication and facing such indication shall stop his vehicle or street car if he can do so safely, otherwise he may proceed with caution.

Amber light

(4) Every driver or street car operator approaching a portable lane control signal showing a circular red indication and facing the indication shall stop his vehicle or street car and shall not proceed until a circular green indication is shown.

Red light

(5) A driver or operator who is required, under this section, to stop his vehicle or street car shall do so at a sign or marking on the highway indicating where a stop is to be made or, if there is no such sign or marking, not less than five metres before the nearest portable lane control signal.

Where to
stop

(6) No person shall without lawful authority remove, deface or otherwise interfere with a portable lane control signal system.

Removing,
etc., port-
able system

(7) The Lieutenant Governor in Council may make regulations,

Regulations
re portable
lane control
devices

- (a) prescribing standards or specifications for portable lane control signal systems;
- (b) prescribing locations where portable lane control signal systems may be erected; and
- (c) prescribing standards for operating and maintaining portable lane control signal systems.

19. Section 151 of the said Act, as amended by the Statutes of Ontario, 1982, chapter 28, section 5 and 1983, chapter 63, section 34, is repealed and the following substituted therefor:

Interpretation **151.**—(1) In this section,

(a) “children” means,

(i) persons under the age of eighteen, and

(ii) in the case where a school bus is being operated by or under a contract with a school board or other authority in charge of a school for the transportation of children to or from school, includes students of the school;

(b) “school” does not include a post-secondary school educational institution;

(c) “school bus” means a chrome yellow bus that is used for the transportation of,

(i) children, or

(ii) mentally retarded adults to or from a training centre,

that bears on the front and rear thereof the words “school bus” and on the rear thereof the words “do not pass when signals flashing”.

Idem (2) For the purposes of subsection (3), a motor vehicle shall be deemed to be a bus if it is or has been operated under the authority of a permit issued under section 7 for which a bus fee was paid.

Prohibition (3) No bus, other than a school bus, shall be painted chrome yellow.

Idem (4) No motor vehicle, other than a school bus, shall bear the words “do not pass when signals flashing” or the words “school bus”.

Duty of driver when school bus stopped on highway (5) Every driver or street car operator when meeting on a highway, other than a highway with a median strip, a stopped school bus that has its red signal-lights flashing, shall stop before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

Idem (6) Every driver or street car operator when overtaking on a highway a stopped school bus that has its red signal-lights flashing, shall stop at least 20 metres before reaching the school bus and shall not proceed until the school bus moves or the signal-lights have stopped flashing.

(7) Subject to subsection (10), every driver of a school bus on a highway,

Duty of
school bus
driver

- (a) who is about to stop for the purpose of receiving or discharging children or mentally retarded adults, shall actuate the red signal-lights on the bus;
- (b) as soon as the bus is stopped, for a purpose set out in clause (a), shall actuate the school bus stop arm; and
- (c) while the bus is stopped, for a purpose set out in clause (a), shall continue the signal-lights and stop arm in operation,

and subsection 147 (1) does not apply to a driver who stops in accordance with this subsection.

(8) Where a school bus driver has stopped, on a highway that does not have a median strip, for a purpose set out in clause (7) (a), the driver shall continue the signal-lights and stop arm in operation until all passengers leaving the bus who are crossing the highway have completed the crossing.

Idem

(9) Subsections (7) and (8) do not apply where the bus is stopped at a place where a signal-light traffic control system is in operation.

Exception

(10) In accordance with the regulations, a council of a municipality may by by-law designate school bus loading zones on highways under its jurisdiction to which subsection (7) does not apply.

School bus
loading zones

(11) No by-law passed under subsection (10) becomes effective until the highways or portions thereof affected are marked to comply with this Act and the regulations.

Signing

(12) No person shall actuate the red signal-lights or the stop arm on the school bus on a highway under any circumstances other than those set out in subsection (7).

Actuating red
signal-lights,
stop arm

(13) No person shall stop a school bus on a highway for the purpose of receiving or discharging children on a highway,

School bus
stopping at
designated
loading zones

- (a) opposite a designated school bus loading zone; or
- (b) at a designated school bus loading zone, except as closely as practicable to the right curb or edge of the roadway.

When words
to be
covered

(14) The words on a school bus “do not pass when signals flashing” and “school bus” shall be concealed while the bus is operated on a highway during a trip that does not involve, at any time during that trip, the transportation of mentally retarded adults to or from a training centre or of children.

When words
to be
exposed

(15) Every school bus transporting, on a highway, children to or from school or mentally retarded adults to or from a training centre shall have the words “school bus” and “do not pass when signals flashing” exposed.

Optional

(16) Where a school bus is transporting children other than to or from a school, the words “school bus” and “do not pass when signals flashing” may be exposed or concealed.

Regulations
re school
buses

(17) The Lieutenant Governor in Council may make regulations,

- (a) respecting the operation of vehicles used for transporting children or for transporting mentally retarded adults to or from a training centre;
- (b) prescribing the type, design and colour of vehicles referred to in clause (a) and the markings to be displayed thereon;
- (c) requiring the use of any equipment on or in vehicles referred to in clause (a) and prescribing the standards and specifications of such equipment;
- (d) prescribing the qualifications of drivers of vehicles referred to in clause (a) and prohibiting the operation thereof by unqualified persons;
- (e) requiring the inspection of vehicles referred to in clause (a);
- (f) respecting the designation of school bus loading zones, the location thereof, the erection of signs and the placing of markings on highways;
- (g) prescribing the books and records that shall be kept by persons who operate vehicles used for transporting children or mentally retarded adults;
- (h) requiring the retention of prescribed books within vehicles and prescribing the information to be contained and the entries to be recorded in the books.

(18) Any regulation made under subsection (17) may be general or particular in its application. Scope of regulations

(19) Every person who contravenes subsection (5) or (6) is guilty of an offence and on conviction is liable, Penalty

- (a) for a first offence, to a fine of not less than \$100 and not more than \$500; and
- (b) for each subsequent offence, to a fine of not less than \$250 and not more than \$1,000 or to imprisonment for a term of not more than six months, or to both.

(20) An offence referred to in subsection (19) committed five years or longer after the date of a previous conviction for either of the offences referred to in subsection (19) is not a subsequent offence for the purpose of clause (19) (b). Time limit for subsequent offence

20. Subsection 152 (1) of the said Act is repealed and the following substituted therefor:

(1) In this section, “school crossing guard” means a person sixteen years of age or older who is directing the movement of children across a highway and who is, Interpretation

- (a) employed by a municipality; or
- (b) employed by a corporation under contract with a municipality to provide the services of a school crossing guard.

21.—(1) Subsection 173 (1) of the said Act, as amended by the Statutes of Ontario, 1983, chapter 63, section 40, is further amended by striking out “\$400” in the fourth line and inserting in lieu thereof “an amount prescribed by regulation”.

(2) The said section 173 is amended by adding thereto the following subsection:

(5) The Lieutenant Governor in Council may make regulations prescribing the amount of property damage for the purposes of subsection (1). Regulations as to amount of property damage

22.—(1) This Act, except subsections 3 (1) and (2), section 4 and sections 9 to 18 and 21, comes into force on the day it receives Royal Assent. Commence-ment

Idem

(2) Subsections 3 (1) and (2), section 4 and sections 9 to 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

Idem

(3) Section 21 comes into force on the 1st day of January, 1985.

Short title

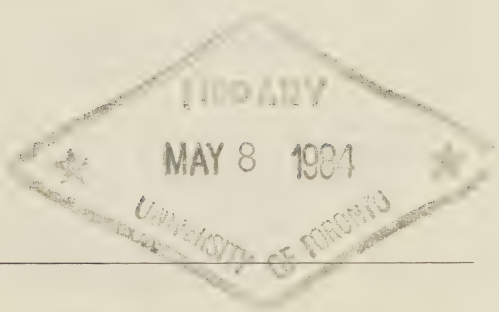
23. The short title of this Act is the *Highway Traffic Amendment Act, 1984*.

29 N

Bill 46

An Act respecting French Language Services in Ontario

Mr. Roy



1st Reading April 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

This Bill places a duty on the Government of Ontario to provide, as of right, public services in the French language to the citizens of Ontario subject to certain conditions set out in the Bill. The Bill also establishes the office of the French Language Services Coordinator and the Language Services Board to aid in improving the availability of French language services in Ontario.

NOTE EXPLICATIVE

Ce projet de loi fait obligation au gouvernement de l'Ontario d'assurer, de droit, des services publics en français aux citoyens de l'Ontario, sous réserve de certaines conditions énoncées dans le texte. Ce projet de loi établit aussi le poste de Coordonnateur des services en langue française ainsi que le Conseil des services en langue française aux fins d'améliorer la disponibilité de services en langue française en Ontario.

Bill 46**1984**

**An Act respecting
French Language Services in Ontario**

Whereas the French language is an historic, honoured and constitutional language of Canada, and whereas there is need to give legal definition to the rights of citizens to have Ontario Government services provided in French;

Preamble

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) “Board” means the Language Services Board established under section 5;
- (b) “Co-ordinator” means the French Language Services Co-ordinator appointed under section 6;
- (c) “Government of Ontario” includes every board, commission, corporation and agency thereof.

2. Subject to section 7, the Government of Ontario shall ensure the provision of educational, judicial, health, social, municipal and other public services in Ontario in the French language in accordance with this Act and with recommendations contained in the report of the Language Services Board or a report of the Co-ordinator of French Language Services.

Government
to provide
French
language
services

3. The English and French languages may be used by any person in any proceedings of the Legislative Assembly or a committee thereof, and the Order Papers, Votes and Proceedings, records and reports of the Assembly or any committee thereof may be printed in both the English and French languages, and any Bill or motion may be introduced in both the English and French languages, and any Act of the Legislative Assembly may be printed and published in both the English and French languages.

Legislative
Assembly

Statutes

4.—(1) Subject to sections 6 and 7, the Acts designated by the Co-ordinator of French Language Services shall be printed and published in English and French and the annual Statutes of Ontario shall be printed and published in English and French.

Statutes

(2) Any regulation, proclamation or notice issued in Ontario may be issued in both English and French and where a regulation, proclamation or notice is issued in both languages and is required to be printed in *The Ontario Gazette*, the regulation, proclamation or notice shall be published accordingly in both languages.

Language
Services
Board

5.—(1) The Language Services Board is hereby established and shall be composed of the Co-ordinator of French Language Services, the Chairman of the Civil Service Commission and three members appointed by the Lieutenant Governor in Council of whom at least two shall be persons who are not members of the public service at the time of appointment.

Chairman

(2) The Lieutenant Governor in Council shall appoint one of the members of the Board as chairman who shall be a person capable of speaking and understanding the English and French languages.

Term of
office

(3) The members of the Board shall be appointed to hold office for a term of one year commencing on the day of the appointment of the chairman and the Board is terminated on the day on which the terms of office expire.

Duties

(4) The Language Services Board shall,

- (a) review the availability of French language services in all parts of Ontario;
- (b) recommend and designate areas of the Province of Ontario in which government services shall be provided in both English and French;
- (c) recommend the extent to which French language services should be provided in those parts of the Province of Ontario not designated under clause (b);
- (d) recommend a time schedule for implementing the recommendations in clauses (b) and (c), and the Board shall report its findings and recommendations to the Premier before the day on which the Board is terminated and the Premier shall forthwith lay the

report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

6.—(1) A Co-ordinator of French Language Services shall be appointed by the Lieutenant Governor in Council who shall have the rank of Deputy Minister and who shall be responsible for supervising and co-ordinating the provision of French Language Services in Ontario.

Co-ordinator of French Language Services

(2) A French Language Services Committee is hereby established to be composed of one representative from each Ministry of the Government to assist the French Language Services Co-ordinator in carrying out his duties under this Act.

French Language Services Committee

(3) The Co-ordinator after the close of each calendar year shall submit to the Premier an annual report containing an assessment of the availability of French language services in Ontario and any recommendations the Co-ordinator may feel are desirable in order to extend or improve the availability of French language services in Ontario and the Premier shall forthwith lay the report before the Assembly if it is in session or, if not, at the commencement of the next ensuing session.

Co-ordinator's report

7.—(1) The Government shall implement all recommendations contained in the report of the Language Services Board or a report of the Co-ordinator unless within six months of the day that the report of the Board or Co-ordinator is submitted to the Premier, the Government lays before the Assembly a statement of intention indicating the recommendations which the Government does not intend to implement.

Statement of intention

(2) The report of the Board, every report of the Co-ordinator and every statement of intention stands permanently referred to a Standing Committee of the Legislature for the purposes of examination and review and the Committee shall, at least once in every five year period, review and make recommendations concerning amendments to the Act or changes in administrative procedures designed to improve the availability of French language services in Ontario.

Standing Committee

8.—(1) Nothing in this Act shall be construed as authorizing a reduction in the availability of French language services existing on the day this Act comes into force.

Saving

(2) Nothing in this Act shall be construed to prohibit the Government from providing French language services where the provision of such services has not been recommended or

Idem

considered by the Language Services Board or the Co-ordinator.

Courts

R.S.O. 1980,
c. 223

(3) Court proceedings and hearings shall be conducted in the French language in accordance with the *Judicature Act* as amended from time to time.

Commence-
ment

9. This Act comes into force on the day it receives Royal Assent.

Short title

10. The short title of this Act is the *Ontario French Language Services Act, 1984*.

Projet de loi 46

1984

Loi concernant les services assurés en français en Ontario

Attendu le rôle privilégié que l'histoire et la constitution du Canada reconnaissent à la langue française et attendu que la loi doit sanctionner le droit des citoyens à ce que les services du gouvernement de l'Ontario soient assurés en français,

Préambule

Sa Majesté, sur l'avis et du consentement de l'Assemblée législative de la province de l'Ontario, édicte ce qui suit:

1 Les définitions qui suivent s'appliquent à la présente loi.

Définitions

«Conseil» Conseil des services en langue française établi par l'article 5.

«Coordonnateur» Coordonnateur des services en langue française nommé en vertu de l'article 6.

«Gouvernement de l'Ontario» Comprend tout conseil, toute commission, société et tout organisme du gouvernement de l'Ontario.

2 Sous réserve de l'article 7, le gouvernement de l'Ontario assure les services éducatifs, judiciaires, de santé publique, sociaux, municipaux et les autres services publics en français dans la province conformément à la présente loi et aux recommandations du rapport du Conseil des services en langue française ou d'un rapport du Coordonnateur des services en langue française.

Prestation par le gouvernement de services en langue française

3 Quiconque peut employer l'anglais et le français dans toutes délibérations de l'Assemblée législative ou d'un de ses comités et les feuillets, procès-verbaux, comptes rendus et rapports de l'Assemblée ou d'un de ses comités peuvent être imprimés en anglais et en français, et tout projet de loi ou toute motion peuvent être présentés en anglais et en français et toute loi de l'Assemblée législative peut être imprimée et publiée en anglais et en français.

Assemblée législative

Lois

4 (1) Sous réserve des articles 6 et 7, les lois désignées par le Coordonnateur des services en langue française sont imprimées et publiées en anglais et en français et les Lois annuelles de l'Ontario sont imprimées et publiées en anglais et en français.

Lois

(2) Tout règlement, toute proclamation ou tout avis émis en Ontario peuvent l'être en anglais et en français et, si un règlement, une proclamation ou un avis sont émis dans les deux langues et doivent être publiés dans l'*Ontario Gazette*, le règlement, la proclamation ou l'avis sont publiés dans les deux langues.

Conseil des
services en
langue
française

5 (1) Il est établi un Conseil des services en langue française composé du Coordonnateur des services en langue française, du président de la Commission de la fonction publique et de trois membres nommés par le lieutenant-gouverneur en conseil, dont deux au moins ne font pas partie de la fonction publique au moment de leur nomination.

Président

(2) Le lieutenant-gouverneur en conseil nomme à titre de président un des membres du Conseil qui parle et comprend l'anglais et le français.

Mandat

(3) Les membres du Conseil sont nommés pour un an à compter du jour de la nomination du président et le Conseil est dissous le jour où les mandats expirent.

Fonctions

(4) Le Conseil des services en langue française

- a) examine la disponibilité des services en langue française dans toutes les régions de la province;
- b) recommande et désigne des régions de la province où les services gouvernementaux doivent être assurés en anglais et en français;
- c) recommande la mesure dans laquelle des services en langue française devraient être assurés dans les régions de la province qui ne sont pas désignées aux termes de l'alinéa b);
- d) recommande un programme d'application des recommandations visées par les alinéas b) et c) et fait rapport de ses conclusions et recommandations au Premier ministre avant sa dissolution et le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

6 (1) Le lieutenant-gouverneur en conseil nomme un Coordonnateur des services en langue française qui a le rang de sous-ministre et a pour fonction de surveiller et de coordonner la prestation de services en langue française en Ontario.

Coordonnateur des services en langue française

(2) Il est établi un Comité des services en langue française composé d'un représentant de chaque ministère et chargé d'aider le Coordonnateur des services en langue française à s'acquitter des fonctions que lui attribue la loi.

Comité des services en langue française

(3) À la fin de chaque année civile, le Coordonnateur présente au Premier ministre un rapport annuel renfermant une évaluation de la disponibilité des services en langue française dans la province et les recommandations du Coordonnateur afin d'en accroître ou améliorer la disponibilité. Le Premier ministre dépose le rapport à l'Assemblée sans délai, si elle est en session ou, sinon, au commencement de la session suivante.

Rapport du Coordonnateur

7 (1) Le gouvernement applique toutes les recommandations formulées dans le rapport du Conseil des services en langue française ou dans un rapport du Coordonnateur, sauf si, dans les six mois à partir du jour où le rapport du Conseil ou du Coordonnateur est présenté au Premier ministre, le gouvernement dépose à l'Assemblée une déclaration d'intention indiquant les recommandations que le gouvernement n'entend pas appliquer.

Déclaration d'intention

(2) Le rapport du Conseil, chaque rapport du Coordonnateur et chaque déclaration d'intention relèvent en permanence d'un Comité permanent de la Législature qui les examine et les étudie et le Comité, au moins une fois tous les cinq ans, recommande les modifications à apporter à la loi ou aux procédures administratives afin d'améliorer la disponibilité des services en langue française en Ontario.

Comité permanent

8 (1) Rien dans la présente loi ne doit s'interpréter comme permettant de réduire la disponibilité de services en langue française existant le jour de son entrée en vigueur.

Restriction

(2) Rien dans la présente loi ne doit s'interpréter comme empêchant le gouvernement d'assurer des services en langue française là où le Conseil des services en langue française ou le Coordonnateur n'en ont pas recommandé ou examiné la prestation.

Idem

(3) Les poursuites et audiences devant les tribunaux ont lieu en français conformément à la *Loi sur l'organisation judiciaire* modifiée de temps à autre.

Tribunaux
L.R.O. 1980,
c. 223

Entrée en
vigueur

9 La loi entre en vigueur le jour où elle reçoit la sanction royale.

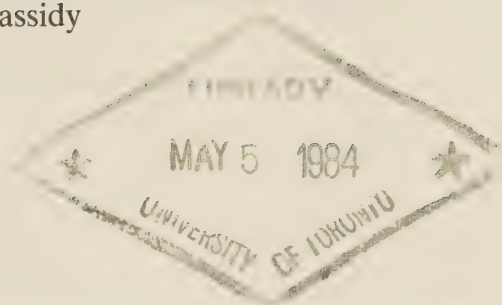
Titre abrégé

10 Le titre abrégé de la loi est *Loi de 1984 sur les services en langue française en Ontario*.

Bill 47

An Act to amend the Time Act

Mr. Cassidy



1st Reading April 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill would extend daylight saving time from the first Sunday in March to the first Sunday in November, subject to variation by regulation, thus providing for eight months of daylight saving time per year in Ontario.

Daylight saving time is not now subject to provincial or federal legislation. It is now applied by municipal ordinance from the last Sunday in April, i.e., about 8 weeks before the summer equinox on June 21, to the last Sunday in October, i.e., approximately four months after June 21. The Bill would extend this to about four months on either side of the summer equinox.

Bill 47

1984

An Act to amend the Time Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 2 (3) of the *Time Act*, being chapter 501 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

(3) Standard time as fixed by subsections (1) and (2) shall be advanced by one hour from 2 a.m. on the first Sunday in March of each year until 2 a.m. on the first Sunday in November of each year. Daylight
saving time

(4) The Lieutenant Governor in Council may make regulations varying the reckoning of standard time as fixed by subsection (1), (2) or (3). Power
to vary

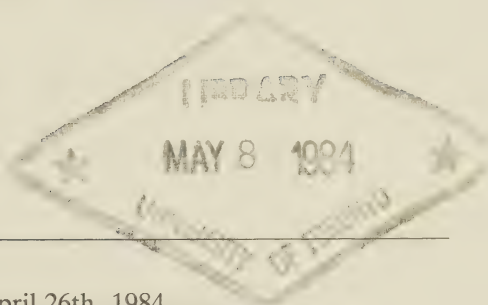
2. This Act comes into force on the day it receives Royal Assent. Commence-
ment

3. The short title of this Act is the *Time Amendment Act*, 1984. Short title

Bill 48

An Act to establish Midwifery as a Self-governing Health Profession

Mr. Cooke



1st Reading April 26th, 1984
2nd Reading
3rd Reading
Royal Assent

EXPLANATORY NOTE

The Bill is intended to establish midwifery as an independent, self-governing health profession along the lines of medicine and nursing.

Bill 48

1984

**An Act to establish Midwifery
as a Self-governing Health Profession**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Health Disciplines Act*, being chapter 196 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following Part:

PART III-A

MIDWIFERY

67a.—(1) In this Part,

Interpretation

- (a) “by-laws” means the by-laws made under this Part;
- (b) “College” means the College of Midwives of Ontario;
- (c) “Council” means the Council of the College;
- (d) “licence” means a licence for the practice of midwifery issued under this Part;
- (e) “member” means a member of the College;
- (f) “practice of midwifery” means the supervision, care and counselling of women before, during and after pregnancy and labour, and includes,
 - (i) conducting normal deliveries independently,
 - (ii) caring for the newborn,
 - (iii) taking preventive measures,

- (iv) detecting abnormal conditions in mothers and the newborn,
 - (v) obtaining medical assistance,
 - (vi) taking emergency measures in the absence of medical assistance, and
 - (vii) providing counselling and education to the community concerning health, preparation for birth and parenthood, family planning and child care;
- (g) “prescribed” means prescribed by the regulations or by-laws made under this Part;
 - (h) “Registrar” means the Registrar of the College;
 - (i) “regulations” means the regulations made under this Part.

Health
discipline

(2) The practice of midwifery is a health discipline to which this Part applies.

College of
Midwives
established

67b.—(1) The College of Midwives of Ontario is established as a body corporate without share capital with power to acquire, hold and dispose of real and personal property for the purposes of this Part.

Objects

(2) The objects of the College are,

- (a) to regulate the practice of midwifery and to govern its members in accordance with this Act, the regulations and the by-laws;
- (b) to establish, maintain and develop standards of knowledge and skill among its members;
- (c) to establish, maintain and develop standards of qualification and practice for the practice of midwifery;
- (d) to establish, maintain and develop standards of professional ethics among its members;
- (e) to administer this Part and perform such other duties and exercise such other powers as are imposed or conferred on the College by or under any Act;

- (f) such other objects relating to human health care as the Council considers desirable,

in order that the public interest may be served and protected.

67c.—(1) Every person licensed by the College is a member of the College subject to any term, condition or limitation to which the licence is subject. Membership
in the
College

(2) A member may resign his or her membership by filing a written resignation with the Registrar and the member's licence is thereupon cancelled, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct while a member. Resignation
of
membership

(3) The Registrar may cancel a licence for non-payment of any prescribed fee after giving the member at least two months notice of the default and intention to cancel, subject to the continuing jurisdiction of the College in respect of any disciplinary action arising out of the member's professional conduct as a member. Cancellation
for default
of fees

67d.—(1) The Council of the College is established and shall be the governing body and board of directors of the College and shall manage and administer its affairs. Council of
the College

(2) The Council shall be composed of, Composition
of Council

- (a) not fewer than eighteen and not more than twenty-five persons who are members and are elected by the members in the manner provided by the regulations; and
- (b) not fewer than six and not more than ten persons who are not members of a Council under this Act or registered or licensed under this Act or any other Act governing a health practice, and who are appointed by the Lieutenant Governor in Council.

(3) The appointment of every person appointed under subsection (2) expires at the first regular meeting of the Council following the election of members to Council held next after the effective date of the person's appointment, and a person whose appointment expires is eligible for reappointment. Expiration
of
appointment

- (4) Every member who is, Qualifica-
tions to
vote;
members
- (a) resident in Ontario;

(b) licensed to practise midwifery; and

(c) not in default of payment of the prescribed annual fee,

is qualified to vote at an election of members of the Council.

President
and Vice-
President

(5) The Council shall elect annually a President and Vice-President from among its members.

Registrar
and
officers

(6) The Council shall appoint during pleasure a Registrar and such other officers and servants as may from time to time be necessary or desirable in the opinion of the Council to perform the work of the College.

Quorum

(7) A majority of the members of the Council constitutes a quorum.

Powers of
Minister

67e. In addition to the powers and duties conferred under Part I, the Minister may,

(a) review the activities of the Council;

(b) request the Council to undertake activities that, in the opinion of the Minister, are necessary and advisable to carry out the intent of this Act;

(c) advise the Council with respect to the implementation of this Part and the regulations and with respect to the methods used or proposed to be used by the Council to implement policies and to enforce its regulations and procedures.

Regulations

67f. Subject to the approval of the Lieutenant Governor in Council and with prior review by the Minister, the Council may make regulations,

(a) fixing the number of members to be elected to the Council and establishing electoral districts for elections;

(b) respecting and governing the qualifications, nomination, election and term of office of the members to be elected to the Council, and controverted elections;

(c) prescribing the conditions disqualifying elected members from sitting on the Council and governing the filling of vacancies on the Council;

- (d) respecting any matter ancillary to the provisions of this Part with regard to the issuing, suspension and revocation of licences;
- (e) prescribing classes of licences and governing the requirements and qualifications for the issuing of licences or any class thereof and prescribing the terms and conditions thereof;
- (f) providing for the maintenance and inspection of registers of persons permitted to practise and for the issuance of certificates of standing by the Registrar;
- (g) governing standards of practice for the profession;
- (h) requiring every member to file with the Registrar annually a plan for consultation with physicians licensed under Part III and for emergency care of the member's patients by a physician or physicians, and providing that a member's licence may be suspended for failure to file such a plan annually;
- (i) governing the designation of life members of the College and prescribing their rights and privileges;
- (j) prohibiting the practice of midwifery where there is a conflict of interest and defining the activities that constitute a conflict of interest for the purpose;
- (k) defining professional misconduct for the purposes of this Part;
- (l) providing for a program of continuing education of members to maintain their standard of competence and requiring members to participate in such continuing education;
- (m) regulating, controlling and prohibiting the use of terms, titles or designations by members or groups or associations of members in respect of their practices;
- (n) respecting the reporting and publication of decisions in disciplinary matters;
- (o) requiring and providing for the inspection and examination of books, accounts, reports and records of members in connection with their practice;

- (p) providing for the compilation of statistical information on the supply, distribution and professional activities of members and requiring members to provide the information necessary to compile such statistics;
- (q) respecting the duties and authority of the Registrar;
- (r) requiring the payment of fees by members and fees for licensing, examinations and continuing education, including penalties for late payment and fees for anything the Registrar is required or authorized to do, and prescribing the amounts thereof;
- (s) prescribing forms and providing for their use;
- (t) providing for the exemption of any member from any provision of the regulations under such special circumstances in the public interest as the Council considers advisable.

By-laws

67g.—(1) The Council may pass by-laws relating to the administrative and domestic affairs of the College not inconsistent with this Act and the regulations and without limiting the generality of the foregoing,

- (a) prescribing the seal of the College;
- (b) providing for the execution of documents by the College;
- (c) respecting banking and finance;
- (d) fixing the financial year of the College and providing for the audit of the accounts and transactions of the College;
- (e) providing procedures for the election of President and Vice-President of the College, the filling of a vacancy in those offices, and prescribing the duties of the President and Vice-President;
- (f) respecting the calling, holding and conducting of meetings of the Council and the duties of members of Council;
- (g) respecting the calling, holding and conducting of meetings of the membership of the College;

- (h) prescribing the remuneration of the members of the Council and committees other than persons appointed by the Lieutenant Governor in Council and providing for the payment of necessary expenses of the Council and committees in the conduct of their business;
- (i) providing for the appointment, composition, powers and duties of such additional or special committees as may be required;
- (j) delegating to the Executive Committee such powers and duties of the Council as are set out in the by-law, other than the power to make, amend or revoke regulations and by-laws;
- (k) providing for a code of ethics;
- (l) prescribing forms and providing for their use;
- (m) providing procedures for the making, amending and revoking of the by-laws;
- (n) respecting management of the property of the College;
- (o) respecting the application of the funds of the College and the investment and reinvestment of any of its funds not immediately required, and for the safe-keeping of its securities;
- (p) providing for the entering into arrangements by the College for its members respecting indemnity for professional liability and respecting the payment and remittance of premiums in connection therewith and prescribing levies to be paid by members and exempting members or any class thereof from all or part of any such levy;
- (q) providing for the establishment, maintenance and administration of a benevolent fund for needy practitioners in Ontario and the dependants of deceased members;
- (r) respecting membership of the College in a national organization with similar functions, the payment of an annual assessment and provision for representatives at meetings;

- (s) respecting all of the things that are considered necessary for the attainment of the objects of the College and the efficient conduct of its affairs.

Idem

(2) A copy of the by-laws made under subsection (1) and amendments thereto,

- (a) shall be forwarded to the Minister;
- (b) shall be forwarded to each member; and
- (c) shall be available for public inspection in the office of the College.

Signing
by-law and
resolutions

(3) Any by-law or resolution signed by all members of the Council is as valid and effective as if passed at a meeting of the Council duly called, constituted and held for the purpose.

Licence to
practise

67h.—(1) No person shall engage in the practice of midwifery, except in the provision of counselling and education referred to in subclause 67a (1) (f) (vii), or hold himself or herself out as engaging in the practice of midwifery, unless the person is licensed under this Part or under Part III.

Proof of
practice

(2) For the purposes of this section, proof of the performance of one act in the practice of midwifery on one occasion is sufficient to establish engaging in the practice of midwifery.

Conflict
with other
health
discipline

(3) A member or person authorized by the regulations may engage in the practice of midwifery notwithstanding that any part of that practice is included in the practice of another health discipline.

Establish-
ment of
committees

67i.—(1) The Council shall establish and appoint as hereinafter provided the following committees,

- (a) Executive Committee;
- (b) Registration Committee; and
- (c) Discipline Committee,

and may establish such other committees as the Council from time to time considers necessary.

Vacancies

(2) Where one or more vacancies occur in the membership of the Council or any committee, the members remaining in office constitute the Council or committee so long as their number is not fewer than the prescribed quorum.

67j.—(1) The Executive Committee shall be composed of, Executive Committee

- (a) the President, who shall be chairman of the Committee;
- (b) the Vice-President; and
- (c) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

(2) A majority of the members of the Executive Committee constitutes a quorum. Quorum

(3) The Executive Committee shall perform such functions of the Council as are delegated to it by the Council, the by-laws or this Part and, subject to ratification by the Council at its next ensuing meeting, may take action upon any other matter that requires immediate attention between meetings of the Council, other than to make, amend or revoke a regulation or by-law. Duties

67k.—(1) The Registration Committee shall be composed of, Registration Committee

- (a) four members of the Council, two of whom shall be persons appointed to the Council by the Lieutenant Governor in Council; and
- (b) the President and Vice-President, *ex officio*.

(2) The Council shall name one member of the Registration Committee to be chairman. Chairman

(3) A majority of the members of the Registration Committee constitutes a quorum. Quorum

67l.—(1) The Registrar shall issue a licence to any applicant therefor who is qualified under this Part and the regulations and has passed such examinations as the Council may set or approve, and the Registrar shall refer to the Registration Committee every application for a licence that he or she proposes to refuse or to which he or she considers terms, conditions or limitations should be attached. Issuance of licences

- (2) The Registration Committee, Powers and duties of Registration Committee
- (a) shall determine the eligibility of applicants for licences and may require an applicant to take and pass such additional examinations as the Council

may set or approve and pay such fees therefor as the Registration Committee fixes or to take such additional training as the Registration Committee specifies; and

- (b) may exempt an applicant from any licensing requirement.

Idem

(3) The Registration Committee may direct the Registrar to issue or refuse to issue licences or to issue licences subject to such terms, conditions and limitations as the Committee specifies.

Review of
qualifica-
tions

(4) The Registration Committee may review the qualifications of any member and may impose a further term, condition or limitation on the member's licence pending the demonstration of such standard of competence through the completion of such experience, courses of study or continuing education as the Committee specifies.

Registers
of
licences

(5) The Registrar shall maintain one or more registers in which is entered every person who is licensed to practise midwifery, identifying the terms, conditions and limitations attached to the licence, and shall note on the register every revocation, suspension and cancellation of a licence and such other information as the Registration Committee or Discipline Committee directs.

Discipline
Committee

67m.—(1) The Discipline Committee shall be composed of ten members of the Council, four of whom shall be persons appointed to the Council by the Lieutenant Governor in Council.

Chairman

(2) The Council shall appoint one of the members of the Discipline Committee to be chairman.

Composition
of panels

(3) The chairman of the Discipline Committee may assign a panel of five members of the Committee to hold a hearing of whom one shall be a person appointed to the Council by the Lieutenant Governor in Council.

Quorum
and votes

(4) Three members of a panel assigned under subsection (3), one of whom shall be a person appointed to the Council by the Lieutenant Governor in Council, constitute a quorum for a hearing and all disciplinary decisions require the vote of a majority of members of the Discipline Committee presiding at the hearing, but in the event of a tie vote the chairman shall have a second or casting vote.

(5) Where a panel of the Discipline Committee commences a hearing and the member of the panel who is appointed to the Council by the Lieutenant Governor in Council becomes unable to continue to act, the remaining members may complete the hearing notwithstanding the member's absence.

Disability
of lay
member

67n.—(1) The Discipline Committee shall,

Duties of
Discipline
Committee

- (a) consider and investigate complaints made by members of the public or members of the College regarding the conduct or actions of any member of the College, and take such action as it considers appropriate, including proceeding under clause (b) as if the complaint were an allegation of professional misconduct or incompetence;
- (b) hear and determine allegations of professional misconduct or incompetence against members,
 - (i) when so directed by the Council or Executive Committee; and
 - (ii) when the Discipline Committee considers it appropriate to deal with a complaint under this clause as if the complaint were an allegation of professional misconduct or incompetence;
- (c) hear and determine matters referred to it under section 67p;
- (d) hold hearings under section 67o; and
- (e) perform such other duties as are assigned to it by the Council.

(2) No action shall be taken by the Committee under clause (1) (a) unless,

Idem

- (a) a written complaint has been filed with the Registrar and the member whose conduct or actions are being investigated has been notified of the complaint and given at least two weeks in which to submit in writing to the Committee any explanations or representations he or she may wish to make concerning the matter; and
- (b) the Committee has examined or has made every reasonable effort to examine all records and other documents relating to the complaint.

Idem

(3) In the case of hearings into allegations of professional misconduct or incompetence, the Discipline Committee shall,

- (a) consider the allegations, hear the evidence and ascertain the facts of the case;
- (b) determine whether upon the evidence and the facts so ascertained the allegations have been proved;
- (c) determine whether in respect of the allegations so proved the member is guilty of professional misconduct or incompetence;
- (d) determine the penalty to be imposed as hereinafter provided in cases in which it finds the member guilty of professional misconduct or of incompetence.

Professional misconduct

(4) A member may be found guilty of professional misconduct by the Committee if,

- (a) he or she has been found guilty of an offence relevant to suitability to practise, upon proof of the conviction; or
- (b) he or she has been guilty in the opinion of the Discipline Committee of professional misconduct as defined in the regulations.

Incompetence

(5) The Discipline Committee may find a member to be incompetent if in its opinion the member has displayed in the professional care of a patient a lack of knowledge, skill or judgment or disregard for the welfare of the patient of a nature or to an extent that demonstrates the member is unfit to continue in practice.

Powers of Discipline Committee

(6) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence it may by order,

- (a) revoke the licence of the member;
- (b) suspend the licence of the member for a stated period;
- (c) impose such restrictions on the licence of the member for such a period and subject to such conditions as the Committee designates;

- (d) reprimand the member and, if deemed warranted, direct that the fact of such reprimand be recorded on the register;
- (e) impose such fine as the Committee considers appropriate to a maximum of \$5,000 to be paid by the member to the Treasurer of Ontario for payment into the Consolidated Revenue Fund;
- (f) direct that the imposition of a penalty be suspended or postponed for such period and upon such terms as the Committee designates,

or any combination thereof.

(7) Where the Discipline Committee is of the opinion that the commencement of the proceedings was unwarranted, the Committee may order that the College reimburse the member for his or her costs or such portion thereof as the Discipline Committee fixes. Costs

(8) Where the Discipline Committee revokes, suspends or restricts a licence on the grounds of incompetence, the decision takes effect immediately notwithstanding that an appeal is taken from the decision. Stay on appeal for incompetence

(9) Where the Discipline Committee revokes, suspends or restricts the licence of a member on grounds other than for incompetence, the order shall not take effect until the time for appeal from the order has expired without an appeal being taken or, if taken, the appeal has been disposed of or abandoned. Stay on appeal for professional misconduct

(10) Where the Discipline Committee finds a member guilty of professional misconduct or incompetence, a copy of the decision shall be served upon the person complaining in respect of the conduct or action of the member. Service of decision of Discipline Committee

(11) Where a proceeding is commenced before the Discipline Committee and the term of office on the Council or on the Committee of a member sitting for the hearing expires or is terminated before the proceeding is disposed of but after evidence has been heard, the member shall be deemed to remain a member of the Discipline Committee for the purpose of completing the disposition of the proceeding in the same manner as if the term of office had not expired or been terminated. Continuation on expiry of Committee membership

670.—(1) In this section,

Interpretation

- (a) "board of inquiry" means a board of inquiry appointed by the Executive Committee under subsection (2);
- (b) "incapacitated member" means a member suffering from a physical or mental condition or disorder of a nature and extent making it desirable in the interests of the public or the member that he or she no longer be permitted to practise or that the member's practice be restricted.

Reference
to board of
inquiry

(2) Where the Registrar receives information leading him or her to believe that a member may be an incapacitated member, the Registrar shall make such inquiry as he or she considers appropriate and report to the Executive Committee who may, upon notice to the member, appoint a board of inquiry composed of at least two members of the College and one member of the Council appointed thereto by the Lieutenant Governor in Council who shall inquire into the matter.

Examination

(3) The board of inquiry shall make such inquiries as it considers appropriate and may require the member to submit to physical or mental examination by such qualified person as the board designates and if the member refuses or fails to submit to such examination, the board may order that the member's licence be suspended until the member complies.

Hearing by
Discipline
Committee

(4) The board of inquiry shall report its findings to the Executive Committee and deliver a copy thereof and a copy of any medical report obtained under subsection (3) to the member about whom the report is made and if, in the opinion of the Executive Committee, the evidence so warrants, the Executive Committee shall refer the matter to the Discipline Committee to hold a hearing and may suspend the member's licence until the determination of the question of the member's capacity becomes final.

Parties

(5) The College, the person whose capacity is being investigated and any other person specified by the Discipline Committee are parties to a proceeding under this section.

Medical
evidence

(6) A legally qualified medical practitioner is not compellable to produce at the hearing his or her case histories, notes or any other records constituting medical evidence but, when required to give evidence, shall prepare a report containing the medical facts, findings, conclusions and treatment, to be signed by the practitioner and served upon the other parties to the proceeding,

- (a) where the evidence is required by the College, at least five days before the hearing commences; and
- (b) where the evidence is required by the person about whom the report is made, at least five days before its introduction as evidence,

and the report is receivable in evidence without proof of its making or of the signature of the legally qualified medical practitioner making the report but a party who is not tendering the report as evidence has the right to summon and cross-examine the medical practitioner on the contents of the report.

(7) The Discipline Committee shall, after the hearing,

Powers of
Discipline
Committee

- (a) make a finding as to whether or not the member is an incapacitated member; and
- (b) where the member is found to be an incapacitated member, by order,
 - (i) revoke the member's licence,
 - (ii) suspend the member's licence for such period as the Committee considers appropriate, or
 - (iii) attach such terms and conditions to the licence as the Committee considers appropriate.

(8) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration and appeals therefrom apply with necessary modifications to proceedings of the Discipline Committee under this section, except that the decision takes effect immediately notwithstanding that an appeal is taken from the decision.

Procedures

67p.—(1) A person whose licence has been revoked or suspended for cause under this Part, or under a predecessor of this Part, may apply in writing to the Registrar for the issuance of a licence or removal of the suspension, but such application shall not be made sooner than one year after the revocation or, where the suspension is for a period of more than one year, one year after the suspension.

Restoration
of licence

(2) The Registrar shall refer the application to the Discipline Committee, which shall hold a hearing respecting and

Reference to
Discipline
Committee

decide upon the application, and shall report its decision and reasons to the Council and to the former member.

Procedures

(3) The provisions of Part I and this Part applying to proceedings of the Health Disciplines Board on hearings and review in respect of applications for registration, except subsection 11 (9), apply with necessary modifications to proceedings of the Discipline Committee under this section.

Direction
by Council
to issue
licence

(4) Notwithstanding subsections (1), (2) and (3), the Council or the Executive Committee may direct at any time that a licence be issued to a person whose licence has previously been revoked for cause or a suspension for cause be removed, subject to such terms, conditions or limitations as the Council or Executive Committee, as the case may be, considers appropriate.

Investigation
of members

67q.—(1) Where the Registrar believes on reasonable and probable grounds that a member has committed an act of professional misconduct or incompetence, the Registrar may, with the approval of the Executive Committee, by order appoint one or more persons to make an investigation to ascertain whether such act has occurred, and the person appointed shall report the result of the investigation to the Registrar.

Powers of
investigator

(2) For purposes relevant to the subject-matter of an investigation under this section, the person appointed to make the investigation may inquire into and examine the practice of the member in respect of whom the investigation is being made and may, upon production of his or her appointment, enter at any reasonable time the business premises of the member and examine books, records, documents and things relevant to the subject-matter of the investigation and for the purposes of the inquiry, the person making the investigation has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such inquiry as if it were an inquiry under that Act.

R.S.O. 1980,
c. 411

Obstruction
of
investigator

(3) No person shall obstruct a person appointed to make an investigation under this section or withhold from him or her or conceal or destroy any books, records, documents or things relevant to the subject-matter of the investigation.

Search
warrant

(4) Where a justice of the peace is satisfied, upon an *ex parte* application by the person making an investigation under this section, that the investigation has been ordered and that such person has been appointed to make it and that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, records, documents

or things relating to the person whose affairs are being investigated and to the subject-matter of the investigation, the justice of the peace may, whether or not an inspection has been made or attempted under subsection (2), issue an order authorizing the person making the investigation, together with such police officer or officers as the person calls upon to assist, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, records, documents or things and to examine them, but every such entry and search shall be made between sunrise and sunset unless the justice of the peace, by the order, authorizes the person making the investigation to make the search at night.

(5) Any person making an investigation under this section may, upon giving a receipt therefor, remove any books, records, documents or things examined under subsection (2) or (4) relating to the member whose practice is being investigated and to the subject-matter of the investigation for the purpose of making copies of such books, records or documents, but such copying shall be carried out with reasonable dispatch and the books, records or documents in question shall be promptly thereafter returned to the member whose practice is being investigated.

Removal of
books, etc.

(6) Any copy made as provided in subsection (5) and certified to be a true copy by the person making the investigation is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, record or document and its contents.

Admissibility
of copies

(7) The Registrar shall report the results of the investigation to the Council or the Executive Committee or to such other committee as he or she considers appropriate.

Report of
Registrar

67r.—(1) Every person employed in the administration of this Part, including any person making an inquiry or investigation under section 67q, and any member of the Council or a Committee, shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her duties, employment, inquiry or investigation under section 67q and shall not communicate any such matters to any other person except,

Matters
confidential

- (a) as may be required in connection with the administration of this Part and the regulations and by-laws or any proceedings under this Part or the regulations; or
- (b) to his or her counsel; or

- (c) with the consent of the person to whom the information relates.

Testimony
in civil
suit

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by the person in the course of his or her duties, employment, inquiry or investigation except in a proceeding under this Part or the regulations or by-laws.

Restraining
orders

67s.—(1) Where it appears to the College that any person does not comply with any provision of this Part or the regulations, notwithstanding the imposition of any penalty in respect of such non-compliance and in addition to any other rights it may have, the College may apply to a judge of the High Court for an order directing the person to comply with the provision, and upon the application the judge may make such order or such other order as the judge thinks fit.

Appeal

(2) An appeal lies to the Divisional Court from an order made under subsection (1).

Penalties

67t.—(1) Every person who contravenes section 67h is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$2,000 and for each subsequent offence to a fine of not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

Idem,
use of
titles

(2) Subject to the provisions of Parts II and V, any person not licensed under this Part or Part III who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he or she is licensed or registered under this Part or is recognized by law or otherwise as a midwife, or who assumes, uses or employs the description or title “midwife” or advertises or holds himself or herself out as such, is guilty of an offence and on conviction is liable for the first offence to a fine of not more than \$1,000 and for each subsequent offence to a fine of not more than \$2,000.

Idem

(3) Any person who obstructs a person appointed to make an investigation under section 67t in the course of his or her duties is guilty of an offence and on conviction is liable to a fine not exceeding \$2,000.

Commence-
ment

2. This Act comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

3. The short title of this Act is the *Health Disciplines Amendment Act, 1984*.

010

Bill 49

Private Member's Bill

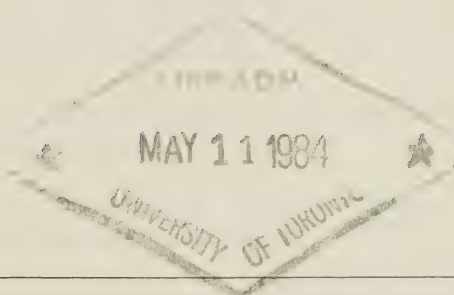
4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 49

An Act to amend the Vital Statistics Act

Mr. Boudria



1st Reading April 27th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill removes all restrictions on the choice of the surname that a child is given at birth and eliminates references to birth within or outside marriage.

Bill 49**1984****An Act to amend the Vital Statistics Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 6 of the *Vital Statistics Act*, being chapter 524 of the Revised Statutes of Ontario, 1980, is repealed and the following substituted therefor:

6.—(1) Within thirty days after the day of the birth in Ontario of a child, Statement of birth

- (a) the child's parents or a person acting on their behalf, where the child is in their joint custody;
- (b) the child's mother or a person acting on her behalf, where the child is not in the parents' joint custody,

shall complete, certify and deliver or mail a statement in the prescribed form respecting the birth to the division registrar of the registration division within which the child was born.

(2) The statement referred to in subsection (1) shall show the child's surname and at least one given name. Child's name

(3) The statement referred to in subsection (1) shall not state whether the child's parents are married to each other. Contents of statement

(4) Where the statement referred to in subsection (1) was given by the child's mother or a person acting on her behalf and, Amendment of registration

- (a) the parents together make a request in the prescribed form to amend the registration by showing a different surname for the child; and
- (b) where the child is twelve years of age or older, the child consents to the request,

the Registrar General shall amend the registration accordingly.

2. Section 12 of the said Act is repealed.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Vital Statistics Amendment Act, 1984*.

26N

Bill 50

Private Member's Bill

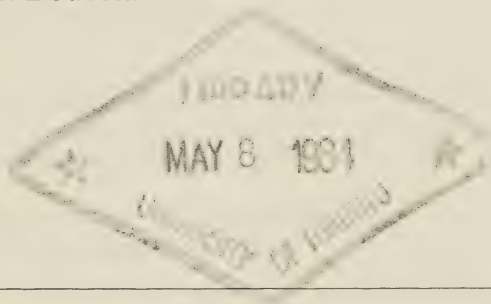
4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 50

An Act to amend the Change of Name Act

Mr. Boudria



1st Reading April 27th, 1984

2nd Reading

3rd Reading

Royal Assent

EXPLANATORY NOTE

The Bill would clarify the circumstances under which a divorced parent may change the names of the children in his or her custody without the ex-spouse's consent and would enable an unmarried parent to change the surname of the children in his or her custody to his or her own surname by a similar procedure.

Bill 50**1984****An Act to amend the Change of Name Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. The *Change of Name Act*, being chapter 62 of the Revised Statutes of Ontario, 1980, is amended by adding thereto the following section:

7a.—(1) An unmarried parent may make an application to change to his or her own surname the surname of any of his or her unmarried minor children of whom he or she has lawful custody.

Application
by unmarried
parent

(2) No application under subsection (1) shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

Consent of
other parent

2. Subsections 9 (2) and (3) of the said Act are repealed and the following substituted therefor:

(2) A person's consent required under subsection 6 (3), 6 (4) or 7a (2) or under section 8 shall be obtained in writing and the person shall appear on the hearing of the application.

Consent of
other parent
or spouse

(3) Notwithstanding subsection (2), in the case of an application under section 6 or 7a, where the judge is satisfied that,

Dispensing
with consent

(a) the other parent,

(i) has not contributed to the support of, or visited or communicated with the child or children during the two year period preceding the application,

(ii) cannot be found, or

(iii) is incapable of consenting to the change of name; or

- (b) the best interests of the child or children require that the other parent's consent be dispensed with,

the judge may dispense with the service of the notice of the application on the other parent and may hear the application in his or her absence and without his or her consent.

Commence-
ment

3. This Act comes into force on the day it receives Royal Assent.

Short title

4. The short title of this Act is the *Change of Name Amendment Act, 1984*.



3 1761 11470975 1